NOTE

This Microfiche meets the quality requirements of the American National Standard for Microfiche of Documents (ANSI PH5.9-1975). However, because of imperfections in the document from which it was made, it contains images that are illegible or difficult to read. The source document for this microfiche is the best copy that could be obtained prior to filming.

CIS Congressional Information Service
Washington, D.C.

Calendar No. 333

101ST CONGRESS
1st Session

SENATE

REPORT
101-179

IDAHO FOREST MANAGEMENT ACT OF 1989

NOVEMBER 1 (legislative day, SEPTEMBER 18), 1989.—Ordered to be printed

Mr. JOHNSTON, from the Committee on Energy and Natural Resources, submitted the following

REPORT

together with

ADDITIONAL AND MINORITY VIEWS

[To accompany S. 371]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 371) to designate certain National Forest System lands in the State of Idaho for inclusion in the National Wilderness Preservation System, to prescribe certain management formulae for certain National Forest System lands, and to release other forest lands for multiple-use management, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Idaho Forest Management Act of 1989".

TITLE I—FINDINGS, PURPOSES, WILDERNESS AND SPECIAL DESIGNATIONS

SEC. 101. (a) The Congress finds that—

(1) certain areas of undeveloped National Forest lands in the State of Idaho possess outstanding natural characteristics giving them high value as wilderness and will, if properly preserved, contribute as an enduring resource of wilderness for the benefit of the American people;

(2) review and evaluation of roadless and undeveloped lands in the National Forest System of Idaho have identified those areas which, on the basis of their landform, ecosystem, associated wildlife, and location, will help to fulfill the National Forest System's share of a quality National Wilderness Preservation System;

S313-37

(3) review and evaluation of roadless and undeveloped lands in the National Forest System in Idaho have also identified those areas which should be specially managed under prescribed formulae designed to allow timber harvesting while protecting and mitigating damage to fish and wildlife resources and also identified other areas which should be specially managed for recreational access and uses only; and

(4) review and evaluation of roadless and undeveloped lands in the National Forest System in Idaho have also identified those areas which should be available for multiple uses other than wilderness, subject to the Forest Service's land management planning process and the provisions of this Act.

(b) The purposes of this Act are to—

(1) designate certain National Forest System lands in Idaho for inclusion in the National Wilderness Preservation System in order to preserve the wilderness character of the lands and to protect watersheds and wildlife habitat, preserve scenic and historic resources, and promote scientific research, primitive recreation, solitude, physical and mental challenge, and inspiration for the benefit of all of the American people;

(2) designate certain National Forest System lands in Idaho for special management under prescribed formulae designed to allow timber harvesting while protecting and mitigating damage to fish and wildlife resources and to designate certain other lands for special management to allow recreational access and uses only;

(3) require appropriate assessments and documentation of mineral potential of National Wilderness Preservation System lands in the State of Idaho in order to enhance the data base; and

(4) insure that certain National Forest System lands in the State of Idaho be made available and managed for multiple uses other than wilderness in accordance with applicable National Forest laws and planning procedures and title II of this Act. Such uses shall include, but not be limited to, fish and wildlife protection and management, developed and undeveloped recreation, scenic enjoyment, preservation of natural characteristics, range management, grazing, timber harvesting, watershed and vegetation management, and energy and mineral exploration and development.

SEC. 102. In furtherance of the purposes of the Wilderness Act (78 Stat. 890), the following National Forest System lands in the State of Idaho, comprising approximately one million three hundred and forty eight thousand acres and generally depicted on maps appropriately referenced, are hereby designated as wilderness, and therefore, as components of the National Wilderness Preservation System:

(a) certain lands in the Idaho Panhandle National Forests which comprise approximately twenty-two thousand six hundred acres as generally depicted on a map entitled "Salmo-Priest Wilderness—Proposed", dated January 1989, and which shall be known as the Salmo Priest Wilderness;

(b) certain lands in the Idaho Panhandle National Forests which comprise approximately thirty seven thousand one hundred and twenty acres as generally depicted on a map entitled "Selkirk Crest Wilderness—Proposed", dated October 1989, and which shall be known as the Selkirk Crest Wilderness;

(c) certain lands in the Idaho Panhandle National Forests which comprise approximately fourteen thousand nine hundred and fifty acres as generally depicted on a map entitled "Scotchman Peak Wilderness—Proposed", dated January 1989, and which shall be known as the Scotchman Peak Wilderness;

(d) certain lands in the Idaho Panhandle National Forests and the Clearwater National Forest which comprise approximately one hundred and fifty-two thousand one hundred acres as generally depicted on a map entitled "Mallard-Larkin Wilderness—Proposed", dated January 1989, and which shall be known as the Mallard Larkin Wilderness. The previous classification of the Mallard Larkin Pioneer Area is hereby abolished;

(e) certain lands in the Clearwater National Forest which comprise approximately one hundred and forty-two thousand two hundred and fifty acres as generally depicted on a map entitled "Kelly-Cayuse Wilderness—Proposed", dated January 1989, and which shall be known as the Kelly-Cayuse Wilderness;

(f) certain lands in the Payette National Forest which comprise approximately two hundred and sixty-three thousand one hundred acres as generally depicted on a map entitled "Secesh-Payette Crest Wilderness—Proposed", dated January 1989, and which shall be known as the Secesh-Payette Crest Wilderness;

(g) certain lands in the Boise National Forest which comprise approximately nine thousand three hundred acres as generally depicted on a map entitled

"Snowbank Wilderness—Proposed", dated January 1989, and which shall be known as the Snowbank Wilderness;

(h) certain lands in the Boise National Forest which comprise approximately sixty-six thousand two hundred acres as generally depicted on a map entitled "Red Mountain Wilderness—Proposed", dated January 1989, and which shall be known as the Red Mountain Wilderness;

(i) certain lands in the Boise and Challis National Forests which comprise approximately one hundred and thirty-six thousand seven hundred acres as generally depicted on a map entitled "Sawtooth Additions—Proposed", dated January 1989, and which are hereby incorporated in and shall be deemed to be part of the Sawtooth Wilderness;

(j) certain lands in the Sawtooth National Recreation Area which comprise approximately one hundred and fifty-seven thousand two hundred acres as generally depicted on a map entitled "White Cloud-Boulder Wilderness—Proposed", dated January 1989, and which shall be known as the White Cloud-Boulder Wilderness and shall be administered in accordance with the Wilderness Act (78 Stat. 890) as provided in subsection 104(b) of this Act, or the Act of August 22, 1972, which established the Sawtooth National Recreation Area (Public Law 92-400), whichever is more restrictive: *Provided,* That nothing in this Act shall affect the value of any valid existing rights which may have existed under the mining laws of the United States prior to August 22, 1972;

(k) certain lands in the Challis National Forest which comprise approximately one hundred and thirteen thousand one hundred acres as generally depicted on a map entitled "Pioneer Wilderness—Proposed", dated January 1989, and which shall be known as the Pioneer Wilderness;

(l) certain lands in the Challis National Forest which comprise approximately fifty-four thousand five hundred acres as generally depicted on a map entitled "Borah Peak Wilderness—Proposed", dated January 1989, and which shall be known as the Borah Peak Wilderness;

(m) certain lands in the Targhee National Forest which comprise approximately fifty-four thousand six hundred acres as generally depicted on a map entitled "Italian Peaks Wilderness—Proposed", dated January 1989, and which shall be known as the Italian Peaks Wilderness;

(n) certain lands in the Targhee National Forest which comprise approximately thirteen thousand five hundred acres as generally depicted on a map entitled "Lionhead Wilderness—Proposed", dated January 1989, and which shall be known as the Lionhead Wilderness;

(o) certain lands in the Targhee National Forest which comprise approximately three thousand five hundred acres as generally depicted on a map entitled "Winegar Hole Addition—Proposed", dated January 1989, and which are hereby incorporated in shall be a part of the Winegar Hole Wilderness;

(p) certain lands in the Targhee National Forest which comprise approximately one hundred and fifty-five thousand two hundred acres as generally depicted on a map entitled "Palisades Wilderness—Proposed", dated January 1989, and which shall be known as the Palisades Wilderness; and

(q) certain lands in the Caribou National Forest which comprise approximately eighteen thousand one hundred acres as generally depicted on a map entitled "Mount Naomi Wilderness—Proposed", dated January 1989, and which shall be known as the Mount Naomi Wilderness.

SEC. 103. (a)(1) There is hereby established the Clearwater Special Management Area (hereinafter in this paragraph referred to as the "area"), located in the Clearwater and Idaho Panhandle National Forests, and comprising approximately fifty-nine thousand six hundred and sixty acres, as generally depicted on a map entitled "Clearwater Special Management Area" and dated September 1989. The Clearwater Special Management Area, which is composed of lands adjacent to or in the vicinity of Foehl Creek, Minnesaka Creek, Buck Creek, Yankee Point-Neversweat, Skull Creek and Copper Creek, shall be managed permanently as a "C8S" area as described in the Forest Plan, Clearwater National Forest dated September 1987. The goals of this "C8S" management prescription shall be to manage these areas to maintain high quality wildlife and fishery objectives while producing timber from the productive forest land. In managing these areas, the Secretary shall meet the goals by resource as set forth in section C of the "C8S" management area prescription contained in the plan. The Secretary shall achieve these goals by managing the areas pursuant to the standards by resource set forth in section C of the "C8S" management prescription, and the minimum forest standards in section E of chapter II, of the plan.

(2) There is hereby established the East Weitas Special Management Area (hereinafter in this paragraph referred to as the "area"), located in the Clearwater National Forest, comprising approximately twenty-six thousand one hundred acres, as generally depicted on a map entitled "East Weitas/Cook Mountain Special Management Areas" and dated September 1989. The area shall be managed permanently as a "C8S" area as described in the Forest Plan, Clearwater National Forest dated September 1987. The goals of this "C8S" management prescription shall be to manage these areas to maintain high quality wildlife and fishery objectives while producing timber from the productive forest land. In managing these areas, the Secretary shall meet the goals by resource as set forth in section C of the "C8S" management area prescription contained in the plan. The Secretary shall achieve these goals by managing the areas pursuant to the standards by resource set forth in section C of the "C8S" management prescription, and the minimum forest standards in section E of chapter II, of the plan.

(3) There is hereby established the Cook Mountain Special Management Area (hereinafter in this paragraph referred to as the "area"), located in the Clearwater National Forest, comprising approximately seventy-seven thousand one hundred acres, as generally depicted a map entitled "East Weitas/Cook Mountain Special Management Area" and dated September 1989. The area shall be managed permanently as "C1" areas as described in the Forest Plan, Clearwater National Forest dated September 1987. The goal of the "C1" management prescription for the Cook Mountain area shall be to manage the area to maximize big-game summer habitat potential without building new roads; to provide for short-term livestock grazing where compatible with elk habitat management; and to provide for high quality dispersed recreation in a semiprimitive motorized setting. In managing the area, the Secretary shall meet the goals by resource as set forth in section C of the "C1" management area prescription contained in the plan. The Secretary shall achieve these goals by managing the area pursuant to the standards by resource set forth in section C of the "C1" management prescription, and the minimum forest standards in section E of chapter II, of the plan.

(4) There is hereby established the French Creek Special Management Area (hereinafter in this paragraph referred to as the "area"), located in the Payette National Forest, and comprising approximately one hundred and fifty-seven thousand acres, as generally depicted on a map entitled "French Creek Special Management Area—Proposed" and dated January 1989. The area shall be managed permanently to improve wildlife and fishery resources while producing timber from the productive forest land. The Secretary shall take specific actions to protect, maintain and improve calving areas, summer and winter range, and habitat for elk and other big game. New roads may be constructed for the purpose of timber harvest and management: *Provided*, That any such roads shall comply with road density standards for the Elk Management Unit in which they are to be constructed and such roads shall be closed to public motorized use. Grazing lands within the area shall be subject to extensive management and, where appropriate to protect fish and wildlife habitat on a site specific basis, to intensive management practices. Fish habitat and water quality within the area shall be maintained or improved. With respect to wildlife and big game habitat, the Secretary shall consult with the Idaho Department of Fish and Game in developing management and monitoring practices. The Secretary shall comply with the following standards:

(A) management activities shall be concentrated within the smallest possible area and shortest period of time practical for the completion of each project within a timber sale area;

(B) logging shall not occur simultaneously on adjacent timber sale area;

(C) ecotones shall be created in timber sale units by unit design and by interspersing successional stages;

(D) big game wallows and licks identified as key habitat by the Secretary shall be protected from disturbance and hiding cover shall be maintained immediately adjacent thereto. No timber harvest of any kind shall occur near wallows or licks during the "rut";

(E) timber harvest shall not occur in calving and fawning areas, identified by the Secretary between May 1 and July 1, or any time when such areas are being used by big game for such purposes; and

(F) big game hiding thermal cover shall be provided around a minimum of 50 per centum of the perimeter of meadows greater than five acres where existing conditions make this viable. Cover areas shall be no less than two elk site distances wide and contain no less than a ten acre stand. The Secretary shall set such additional standards as may be necessary and prudent with respect to cultural, recreational, wildlife, range, timber, soil, water, air, research natural

areas, and resource protection as may be necessary to meet the goal of this management prescription.

(5)(A) There is hereby established the South Fork Special Management Area (hereinafter in this paragraph referred to as the "area"), located in the Payette National Forest, and comprising approximately eighty-four thousand two hundred acres, as generally depicted on a map entitled "South Fork Special Management Area—Proposed", dated January 1989. The area shall be managed permanently in accordance with this paragraph. The Secretary shall allow no harvesting of timber or other commercial activity in the area designated "A" on the above described map, which area is generally one half mile in both directions from the center of the South Fork of the Salmon River from the confluence with the East Fork of the South Fork, south to the Payette National Forest boundary: Provided, That commercial outfitting and guide services may be performed within area "A": Provided futher, That any road located within area "A" may be maintained, upgraded and utilized for commercial activities outside of area "A".

(B) The Secretary shall allow timber harvesting in areas outside of area "A" but within any drainage of any tributary which flows into that reach of the South Fork of the Salmon which lies within area "A" (hereinafter the "reach system") only to the extent such harvesting results in no net increase in sediment deposit in the reach system. Such timber harvesting shall occur only upon the following conditions:

(i) Sediment deposited in the reach system shall be mitigated;

(ii) mitigation shall occur by removal of deposited sediment or by prevention of sedimentation, in an amount equal to, in volume, the total amount of the sediment to be deposited in the reach system as a result of commercial activity associated with timber harvesting within the sale area as predicted by the BOISED sedimentation model, or any state-of-the-art reach system specific replacement;

(iii) mitigation by removal of deposited sediment shall occur before, during or immediately after commercial activity associated with timber harvesting within a sale area commences. Mitigation by removal shall occur, to the extent reasonably practicable, in locations within the reach system in the following priority order: stretches downstream from the commercial activity that are significant to anadromous fish; stretches upstream from the commercial activity that are significant to anadromous fish; other downstream stretches; and other upstream stretches;

(iv) mitigation by prevention shall occur in areas within the reach system that are significant to the anadromous fishery in stretches of the reach system before mitigation by prevention is conducted in other areas;

(v) the Secretary shall monitor sedimentation from all commercial activities, and if such monitoring shows that commercial activity associated with timber harvesting in a sale area is resulting in sediment deposits in the reach system which are materially and consequentially in excess of that predicted by the BOISED sedimentation model or its replacement assuming normal activities and conditions, the Secretary shall require such commercial activity to cease. The activity may resume only if the Secretary ensures that such additional action as may be necessary to prevent or mitigate the increase in sediment deposits are undertaken by the commercial operator, or other appropriate entity; and

(vi) mitigation must begin prior to or during the season in which timber harvesting resulting in sedimentation commences.

(C) The Secretary shall consult with the Idaho Department of Fish and Game in identifying stream sediments or areas of significance to the anadromous fish or fishery for purposes of mitigation by removal or prevention. The Secretary shall schedule and manage mitigation activities in order to avoid disturbance of anadromous fish or damage to fish habitat.

(6) There is hereby established the Lime Creek Special Management Area (hereinafter in this paragraph referred to as the "area"), located in the Sawtooth National Forest, and comprising approximately forty thousand five hundred acres, as generally depicted on a map entitled "Lime Creek Special Management Area—Proposed" and dated January 1989. The area shall be managed permanently in accordance with this paragraph. Mining, timber harvesting and road building within the area are prohibited, and the use of motorized recreational vehicles is prohibited within the area except on trails designated for such use. The Secretary shall designate certain trails in the area for use solely by motorized vehicles and shall designate certain other trails on which motorized recreational vehicles shall be prohibted. Such use or prohibition may be either permanent or for specific periods. The Secretary

may not construct any new trails within the area: Provided, That relocation of any portion of any existing trail to alleviate resource damage shall not constitute construction of a new trail if the existing portion is thereafter closed.

(7) There is hereby established the Smoky Mountains Special Management Area (hereinafter in this paragraph referred to as the "area"), located in the Sawtooth National Forest, and comprising approximately one hundred and fifteen thousand six hundred acres, as generally depicted on a map entitled "Smokey Mountains Special Management Area—Proposed" and dated January 1989. The area shall be managed permanently in accordance with this paragraph. Mining, timber harvesting and road building within the area are prohibited, and the use of motorized recreational vehicles is prohibited within the area except on trails designated for such use. The Secretary shall designate certain trails in the area for use solely by motorized recreational vehicles and shall designate certain other trails on which motorized vehicles shall be prohibited. Such use of prohibition shall be either permanent or for specific periods. The Secretary may not construct any new trails within the area: Provided, That relocation of any portion of any existing trail to alleviate resource damage shall not constitute construction of a new trail if the existing portion is thereafter closed.

(8) There is hereby established the Trinities Special Management Area (hereinafter in this paragraph referred to as the "area"), located in the Boise National Forest, and comprising approximately forty-seven thousand six hundred acres, as generally depicted on a map entitled "Trinities Special Management Area" and dated September 1989. The area shall be managed permanently to prohibit mining, timber harvesting and road building. Other activities within the area which were allowed as of the date of enactment of this Act shall be permitted to continue.

(b) Subject to valid existing rights, the Secretary shall administer the areas designated by this section to achieve the purposes for which each was established and in accordance with the laws and regulations applicable to the National Forest System.

(c) Land and resource management plans for the affected national forests prepared in accordance with the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended, shall emphasize achieving the purposes for which the areas are designated.

SEC. 104. (a) As soon as practicable after the enactment of this Act, and consistent with the provisions of section 309, the Secretary of Agriculture (hereinafter referred to as the "Secretary") shall file the maps referred to in sections 102 and 103, and a legal description of each area designated by this Act with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and each such map and legal description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal descriptions and maps may be made. Each map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

(b) Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary in accordance with the provisions of the Wilderness Act of 1964 (78 Stat. 890) governing areas designated by that Act as wilderness areas, except that, with respect of any wilderness area designated in this Act, any reference in such provisions to the effective date of the Wilderness Act of 1964 shall be deemed to be reference to the effective date of this Act.

TITLE II—RELEASE OF LANDS FOR MULTIPLE USE MANAGEMENT

SEC. 201. (a) The Congress finds that—

(1) the Department of Agriculture has adequately met the wilderness study requirements of Public Law 92-400;

(2) the Department of Agriculture has completed the Second Roadless Area Review and Evaluation Program (RARE II);

(3) the Department of Agriculture, with substantial public input, has reviewed the wilderness potential of these and other areas through its Land and Resource Management Planning for National Forests; and

(4) the Congress has made its own examination of National Forest System roadless areas in the State of Idaho and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the questions of the legal and factual sufficiency of the RARE II final environmental impact statement (dated January 1979) with respect to National Forest System lands in States other than Idaho, such state-

ment shall not be subject to judicial review with respect to National Forest System lands in the State of Idaho;

(2) with respect to the National Forest System lands in the State of Idaho which were reviewed by the Department of Agriculture in wilderness studies conducted in RARE II, and in the unit plans which were in effect prior to completion of RARE II, that such reviews shall be deemed for the purposes of the initial land management plans required by such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the plan, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time the Secretary finds that conditions in a unit have significantly changed;

(3) except as may be specifically provided in section 103 of this Act, those areas in the State of Idaho referred to in subparagraph (2) of this subsection which were not designated wilderness shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976: Provided, That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans;

(4) in the event that revised land management plans in the State of Idaho are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommend for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976, and other applicable law; and

(5) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any futher statewide roadless area review and evaluation of National Forest System lands in the State of Idaho for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an amendment to a plan.

(d) The provisions of this section shall also apply to those National Forest System roadless lands in the State of Idaho which are less than five thousand acres in size.

(e) The wilderness suitability review and evaluation of National Forest System lands in the State of Idaho completed as a part of the Land and Resources Management Plans that were completed prior to the enactment of this Act, including the wilderness suitability review and evaluation carried out in the development of the Draft Land and Resource Management Plan for the Boise National Forest, satisfy the provisions of section 201(b)(2) as an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revisions of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time the Secretary finds that conditions in a unit have significantly changed.

TITLE III—MISCELLANEOUS PROVISIONS

GRAZING IN WILDERNESS AREAS

SEC. 301. (a) The grazing of livestock in wilderness areas designated by this Act, where such use was established prior to the date of the enactment of this Act, shall be allowed to continue in accordance with section 4(d)(4) of the Wilderness Act which shall be interpreted and administered in accordance with the guidelines contained under the heading "Grazing in National Forest Wilderness" in the Senate report accompanying this Act.

(b) The Secretary is directed to review all policies, practices, and regulations of the Department of Agriculture regarding livestock grazing in National Forest System wilderness areas in Idaho designated by this Act in order to insure that such policies, practices, and regulations fully conform with and implement the intent of Congress regarding grazing in such areas, as such intent is expressed in this Act.

(c) Not later than one year after the date of the enactment of this Act, and at least every five years thereafter, the Secretary of Agriculture shall submit to the Committee on Energy and Natural Resources of the United States Senate and to the Committee on Interior and Insular Affairs of the United States House of Representatives a report detailing the progress made by the Forest Service in carrying out the provisions of paragraphs (a) and (b) of this section.

STATE WATER ALLOCATION AUTHORITY

SEC. 302. With respect to lands in the State of Idaho designated as wilderness or Special Management Areas by this Act, nothing in the Wilderness Act of 1964 (78 Stat. 890) or this Act shall constitute or be construed to constitute either an express or implied reservation of water of water rights for any purpose. The United States may acquire such water rights as it deems necessary to carry out its responsibilities on any lands designated as wilderness or Special Management Areas by this Act pursuant to the substantive and procedural requirements of the laws of the State of Idaho. This section shall not affect any reserved water right which the United States may have previously acquired within the State of Idaho with respect to any lands designated as wilderness of Special Management Areas by this Act for the primary purposes for which such lands had been originally withdrawn from the public domain.

STATE JURISDICTION OVER FISH AND WILDLIFE

SEC. 303. As provided in section 4(d)(7) of the Wilderness Act of 1964, nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the State of Idaho with respect to wildlife and fish in the national forest in Idaho.

PROTECTION OF WATERSHEDS

SEC. 304. Within areas designated as wilderness by this Act, the Forest Service is directed to utilize whatever sanitary facilities are necessary, including but not limited to vault toilets which may require service by helicopter, to insure the continued health and safety of the communities serviced by the watersheds in wilderness areas in the State of Idaho. Nothing in this Act shall be construed to limit motorized access and road maintenance by local municipalities for those minimum maintenance activities necessary to guarantee the continued viability of whatsoever watershed facilities currently exist or which may be necessary in the future to prevent the degradation of the water supply in wilderness areas within the State of Idaho.

ACCESS FOR FISH AND WILDLIFE PURPOSES

SEC. 305. Within areas designated wilderness or Special Management Areas in the State of Idaho by this or any other Act, the Secretary is directed to allow helicopter access by Federal and State agencies for emergency purposes and to State agencies for fish and wildlife purposes: Provided, That nothing in this section shall be construed to authorize the construction of any new landing areas. Such access shall be permitted only at existing landing sites, whether previously constructed or natural.

PROHIBITION OF BUFFER ZONES

SEC. 306. Congress does not intend that designation of wilderness areas in the State of Idaho lead to the creation of protective perimeters of buffer zones around each wilderness area. The fact that nonwodlerness activities or uses can be seen or heard from areas within the wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

MINERAL RESOURCES

SEC. 307. In furtherance of section 4(d)(2) of the Wilderness Act and the policies of the National Materials and Minerals Policy, Research and Development Act (94 Stat. 2305), the Secretary of the Interior shall continue to make assessments of the mineral potential of national forest wilderness areas in the State of Idaho, on a recurring basis, using environmentally compatible methods, in order to expand the data base with respect to the mineral potential of such lands.

LANDING OF AIRCRAFT

SEC. 308. (a) Except as otherwise specifically provided by this Act, the landing of aircraft at backcountry airstrips on federally owned lands within the State of Idaho designated as wilderness or Special Management Areas, where this use has become established prior to the date of enactment of this Act, shall be permitted to continue. Such airstrips shall not be closed, and shall be maintained by the Secretary so as to permit continued public use.

(b) With respect to backcountry airstrips located on privately owned lands within wilderness or Special Management Areas within the State of Idaho, the Secretary shall not be required to maintain such airstrips nor shall he close them.

(c) Upon the acquisition of lands described in (b), the Secretary shall maintain such airstrips and shall not close them without the express written concurrence of the agency of the State of Idaho charged with evaluating the safety of backcountry airstrips.

(d) Nothing in this section shall preclude the Secretary from temporarily closing such airstrips for emergency purposes, to protect the health and safety of the public, or to provide necessary maintenance.

INVENTORY OF STRUCTURES WITHIN WILDERNESS AREAS

SEC. 309. (a) Within two years after the date of enactment of this Act, the Secretary shall cooperate with the Secretary of the Interior and with agencies and institutions of the State of Idaho in conducting an inventory of the ranch, homestead, trapper, and other cabins and structures within areas designated as wilderness by this Act and submit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives a report on—

(1) the location of these structures;

(2) their historic significance, if any;

(3) their present condition;

(4) recommendations as to which of these structures should be—

(A) stabilized;

(B) restored;

(C) maintained; or

(D) removed;

(5) the estimated cost of such stabilization, restoration, maintenance, or removal; and

(6) the suitability of any of these structures for inclusion in the National Register of Historic Places.

(b) Until such time as the study under this subsection is completed and the required report submitted to the committees, the Secretary shall not knowingly permit the destruction or significant alteration of any historic cabin or other structure on national forest land within the areas designated as wilderness by this Act.

LAND ACQUISITION

SEC. 310. (a) The Secretary shall promptly identify all lands within the areas designated as wilderness or Special Management Areas by this Act which are not owned by the Federal Government. With respect to lands owned by the State of Idaho or a political subdivision thereof, the Secretary may acquire such lands only by exchange. The Secretary shall make every reasonable effort to acquire such lands by exchange as expeditiously as possible. Privately owned lands may be acquired only with the consent of the owner by purchase, donation, or exchange.

(b) Any exchange of lands made pursuant to this section shall be in accordance with existing law, including but not limited to, the applicable provisions of the Federal Land Policy Management Act of 1976.

OUTFITTER AND GUIDE CAMPS

SEC. 311. (a) With respect to outfitter and guide camps and practices as assigned and allowed by permit prior to the date of enactment of this Act on lands within the State of Idaho designated as wilderness or as Special Management Areas by this or any other Act, the Secretary shall permit, subject to reasonable regulation to insure compatibility, the continuance of existing uses, and the future establishment, and use, of temporary campsites, tent platforms, shelters, and other temporary facilities and equipment directly and necessarily related to such activities. Such facilities and equipment shall be constructed, used, and maintained in a manner consistent with the protection of the area in which they are located. All new facilities shall be con-

structed of materials which blend with, and are compatible with, the immediately surrounding landscape. Upon termination of such activities and uses (but not upon regular or seasonal cessation), such structures or facilities shall, upon written request, be removed from the areas by the permittee.

(b) Notwithstanding subsection (a), the Secretary may determine, after adequate notice, that the establishment and use of such new facilities or equipment would constitute a significant expansion of existing facilities or uses which would be detrimental to the purposes for which the affected wilderness or Special Management Areas was established, and may thereupon deny such proposed use or establishment.

(c) The Secretary shall not prohibit the continuance of any commercial outfitting and guide camps and practices subject to this section without the express written concurrence of the agency of the State of Idaho charged with the regulation of the outfitting and guide industry.

ROADS

SEC. 312. (a) As used in this section, the term "road" means any clearly identifiable, well established route of travel which received significant regular or seasonal use prior to February 1, 1989, and which is capable of being traveled by four wheel drive vehicles licensed for highway use by an appropriate State agency.

(b)(1) Within one year after the date of enactment of this Act, the Secretary shall review the approximately fifty miles of potential roads within the boundaries of the wilderness areas designated by this Act, as depicted on the maps referenced in section 102, to determine whether such potential roads meet the definition of a road as defined in subsection (a).

(2) Within two years after the date of enactment of this Act, the Secretary shall identify any other potential roads located within the boundaries of the wilderness areas designated by this Act.

(3) Within two years after the date of enactment of this Act, the Secretary shall review the approximately eighty miles of roads not within the boundaries of the wilderness areas designated by this Act, as depicted on the maps referenced in section 102, to determine whether such roads meet the definition of a road as defined in subsection (a).

(c)(1) Effective immediately upon the date of enactment of this Act, all roads and other routes of travel within the boundaries of the wilderness areas designated by this Act shall be closed to vehicular traffic, except as otherwise provided in this Act and the Wilderness Act.

(2) Prior to the completion of the review conducted pursuant to subsection (b)(1), the approximately fifty miles of potential roads, as depicted on the maps referenced in section 102, shall remain open: *Provided*, That the Secretary may close any road designated in this paragraph to remain open for which, in the opinion of the Secretary, it is likely that upon completion of the review such road will not meet the definition of a road as defined in subsection (a).

(3) Prior to the completion of the review conducted pursuant to subsection (b)(2), the Secretary may open any road or potential road for which, in the opinion of the Secretary, it is likely that upon completion of the review such road will meet the definition of a road as defined in subsection (a).

(d)(1) Upon the completion of each review conducted pursuant to subsection (b), the Secretary shall publish in the Federal Register a list of roads, including a map and legal description of each road (hereinafter in this section collectively referred to as the "list"):

(A) determined by the Secretary to meet the definition of a road, if determined by a review conducted pursuant to subsection (b)(1) or (b)(2), or

(B) determined by the Secretary to not meet the definition of a road, if determined by a review conducted pursuant to subsection (b)(3).

(2) Each list published in the Federal Register pursuant to paragraph (1) shall be kept on file in the offices of the Forest Service in the State of Idaho and shall be transmitted to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives.

(3) Each list shall be published in newspapers of general circulation in the vicinity of affected wilderness areas designated by this Act. The Secretary is directed to conduct informational and other public meetings to notify the public of such list and any roads included thereon.

(4) Not later than sixty days following the publication of such list as provided in subsection (d)(1), the Secretary shall:

(A) open any road designated in such list as meeting the definition of a road as defined in subsection (a); and

(B) close any road or potential road designated in such list as not meeting the definition of a road as defined in subsection (a).

(e)(1) All decisions by the Secretary with respect to a review conducted pursuant to subsection (b) shall be final if not appealed within five years of the date of publication of the list associated with such review as provided in subsection (d)(1).

(2)(A) Any road opened by the Secretary pursuant to subsection (d)(4) shall remain open during the process of any appeal of the decision by the Secretary to open such road.

(B) Any road or potential road closed by the Secretary pursuant to subsection (d)(4) shall remain closed during the process of any appeal of the decision by the Secretary to close such road or potential road.

(3) Upon the final judgment of any appeal of a decision by the Secretary with respect to a review conducted pursuant to subsection (b), but in no event sooner than five years after the publication of the list associated with such review as provided in subsection (d)(1), the Secretary is authorized and directed to modify the boundaries of a Wilderness area designated by this Act to:

(A) exclude from such wilderness area any road, along with fifty feet on each side of the centerline of such road, designated in such list as meeting the definiton of a road as defined in subsection (a); and

(B) include within such wilderness area any road designated in such list as not meeting the definition of a road as defined in subsection (a).

(f)(1) During the periods of review and appeal provided for in this section, nothing in this section shall be construed to affect the existing authority of the Secretary to temporarily open or close roads on national forest system lands in Idaho.

(2) If a final determination pursuant to this section results in the exclusion of a road from a wilderness area, such road shall, thereafter, be subject to all applicable Forest System laws, rules, and regulations.

PURPOSE OF THE MEASURE

The purpose of S. 371, as ordered reported, is to designate approximately 1,348,000 acres of national forest system lands in the State of Idaho for inclusion in the National Wilderness Preservation System, to prescribe certain special management directives for approximately 607,760 acres of national forest system lands, and to release other forest lands for multiple-use management.

BACKGROUND AND NEED

With an estimated 17 million acres of roadless lands, Idaho has the largest undeveloped land base of any of the lower 48 States; 9.3 million acres of unroaded national forest land remain eligible for wilderness designation.

With 81 separately named ranges, Idaho is also the most mountainous State on the continent. Its central portion is the most rugged, consisting of the large intrusion called the Idaho Batholith, through which such wild rivers as the Salmon and the Selway flow. Bighorn sheep and mountain goats inhabit the high country of Idaho's roadless areas. These lands also provide important habitat for the threatened grizzly bear, Rocky Mountain grey wolf, and other big game species, as well as Chinook salmon and steelhead. Portions of some of these roadless areas also contain rich mineral resources, oil and gas potential, livestock forage, valuable timber, and opportunities for a variety of motorized and non-motorized recreation activities.

Approximately 4 million acres of designated wilderness currently exist in the State with over half in the 2.2-million-acre "Frank Church-River of No Return Wilderness", the largest wilderness area outside of Alaska.

RARE II

In 1979, after years of analysis, the Forest Service released its second Roadless Area Review and Evaluation (RARE II). Of the 62 million acres of roadless land it studied, the Forest Service recommended that 15 million acres be designated as wilderness, 11 million acres be studied further and 36 million acres to be released for non-wilderness uses. With its completion, the Forest Service anticipated that it could finally begin multiple-use management on a significant portion of the vast roadless acreage on the national forests.

However, a 1982 court decision, *California* vs. *Block,* held that the environmental impact statement (EIS) accompanying RARE II was inadequate, and once again opened the debate over the national forest roadless lands. Subsequently, the Forest Service began the process of incorporating detailed wilderness studies of roadless areas into its already complex and much delayed land management planning process.

Seeking a more expeditious resolution to the roadless dispute, Congressional delegations introduced and won passage of individual State-wide wilderness bills, which made large additions to the Wilderness System and "released" or made available to multiple-use management, the remaining roadless acreage. These bills also insulated the RARE II recommendations in the EIS from further judicial review. In 1984 alone, delegations from almost 20 States took advantage of this process and enacted State-wide RARE II wilderness bills.

The Idaho delegation also introduced a wilderness proposal in 1984, but it was not enacted. Consequently, Idaho roadless lands remain almost entirely undeveloped pending final recommendations from forest plans. The Forest Service estimates that wilderness recommendations in these plans total about 1.3 million acres. However, virtually all of the plans that have been finalized are under appeal.

S. 371 would complete the RARE II wilderness process for the State of Idaho by designating certain lands for inclusion in the Wilderness System; providing special management direction for others; and statutorily releasing other lands for non-wilderness multiple uses.

LEGISLATIVE HISTORY

S. 371 was introduced by Senator McClure on February 7, 1989. A nearly identical measure was introduced by Senator McClure last Congress, and was the subject of four field hearings in Idaho as well as a hearing in Washington, D.C. The Subcommittee on Public Lands, National Parks and Forests held a hearing on S. 371 on July 20, 1989.

At the business meeting on October 4, 1989, the Senate Committee on Energy and Natural Resources ordered S. 371, as amended, favorably reported.

COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on October 4, 1989, by a majority vote of a

quorum present, recommends that the Senate pass S. 371 if amended, as described herein.

The rollcall vote on reporting the measure was 15 yeas, 3 nays, as follows:

YEAS	NAYS
Mr. Johnston	Mr. Metzenbaum*
Mr. Bumpers	Mr. Bradley*
Mr. Ford	Mr. Wirth*
Mr. Conrad	
Mr. Heflin	
Mr. Rockefeller*	
Mr. McClure	
Mr. Hatfield*	
Mr. Domenici*	
Mr. Wallop*	
Mr. Murkowski	
Mr. Nickles*	
Mr. Burns*	
Mr. Garn*	
Mr. McConnell	

*Indicates voted by proxy.

COMMITTEE AMENDMENTS

During the consideration of S. 371, the Committee adopted numerous amendments which were then incorporated into a single amendment in the nature of a substitute. Many of these amendments were technical and/or conforming. The substantive changes made by the Committee to S. 371, as introduced, are discussed below. Additional information regarding the measure as reported by the Committee is contained in the "Section-by-Section Analysis" portion of this report.

Grazing in wilderness areas

The Committee agreed to delete the language in S. 371 with respect to grazing and replace it with language similar to that which has been included in most State-wide RARE II wilderness bills since 1983. The Committee notes that the intent of both versions is the same and that the impact of both versions would be the same on the ground.

Mandated timber harvest level

As introduced, S. 371 included provisions directing the Secretary of Agriculture to make available a statutorily specified sale quantity of timber from the Bonner's Ferry District of the Idaho Panhandle National Forest and the Panhandle National Forests in general. This language was originally included in the bill to help ensure that the inclusion of Long Canyon in the proposed Selkirk Crest Wilderness would not, in conjunction with possible appeals and legal challenges, result in the closure of local sawmills because of inadequate timber supplies.

In response to considerable opposition to the notion of legislatively mandated timber harvest levels, the Committee agreed to delete that language. But because the issues of prescribed harvest levels

and the designation of Long Canyon as wilderness were linked, the Committee also agreed to delete that portion of Long Canyon containing the most significant timber resources from the proposed Selkirk Crest Wilderness.

Although this language and Long Canyon were deleted, the Committee expects the Forest Service to maintain an allowable sale quantity of timber on the Bonner's Ferry District consistent with historical levels, which the Committee understands to be approximately 40 million board feet annually, for the duration of the current planning cycle. Likewise, during the same period, the Committee expects the Forest Service to manage that portion of Long Canyon not included in the proposed Selkirk Crest Wilderness to maintain its roadless character and its suitability for inclusion in the National Wilderness Preservation System.

Helicopter skiing

The Committee adopted an amendment to delete the provisions in S. 371 which would have directed the Secretary to permit helicopters to land inside the proposed Palisades Wilderness for the purposes of recreational skiing. The Committee notes that there is currently an existing Forest Service permit authorizing such uses in this area. To the extent there may be pre-existing uses, the Wilderness Act gives the Secretary the discretion to permit certain motorized uses in wilderness areas, and the Committee expects that the applicable provisions of the Wilderness Act will apply in this instance.

Backcountry airstrips

As introduced, S. 371 included several provisions relating to the maintenance and continued use of backcountry airstrips. Specifically, the measure directed the Secretary to continue to permit the use of such airstrips which were being used on the date of enactment of this Act. In addition, the Secretary was directed to maintain and not permanently close any airstrip on national forest land in Idaho regardless of whether such airstrip was located inside a wilderness or Special Management Area and regardless of whether the airstrip was in public or private ownership.

The Committee agreed to modify the language to make clear that it only applied to backcountry airstrips located in wilderness or Special Management Areas in Idaho and to relieve the Secretary from the obligation of maintaining those airstrips on non-publicly owned lands. With respect to privately owned airstrips located on lands which are ultimately acquired by the Secretary, the Committee adopted language to ensure that those strips, once acquired, would be maintained by the Secretary and not closed.

Prohibition on buffer zones

As in the case of the grazing issue, the Committee agreed to adopt the standard language included in most previous State-wide RARE II wilderness bills regarding buffer zones instead of the slightly modified version contained in S. 371, as introduced. The Committee believes the effect of both versions to be the same in practice.

Land acquisition authority

The Committee made several minor changes in S. 371, as introduced, regarding the authority of the Secretary to acquire lands or interests in lands inside wilderness and Special Management Areas. The Committee added language to make it clear that the Secretary is to make every reasonable effort to acquire State owned lands instead of the language in the bill which could have been construed to direct the Secretary to make such exchanges with little or no discretion. In addition, the Committee added a new subsection providing that any exchange carried out pursuant to this Act is to be made in accordance with applicable provisions of existing law including the Federal Land Policy and Management Act.

State water allocation authority

During the consideration of S. 371, the Committee made one change to the provision dealing with Federal reserved water rights. The Committee agreed to modify the language to apply only to lands that are covered by this Act and not to affect the water rights issue with respect to lands which have heretofore been designated as wilderness in Idaho. By making these changes, the Committee does not intend to imply that water or water rights were or were not reserved by reason of these earlier designations. Rather, the Committee agreed to remain silent on this issue and just address the lands affected by S. 371.

Release language

As introduced, S. 371 included the standard "release/sufficiency" language contained in all RARE II wilderness bills since 1983. During the Committee markup, there was considerable discussion regarding retaining this language; replacing it with the so-called "updated" release language suggested by the Forest Service; or adopting the release provisions included in the Montana Wilderness bill (S. 2751), which passed the Congress last year but was ultimately pocket vetoed for reasons unrelated to the release issue.

The primary difference between these versions is that the "updated" provisions recognize that the Land and Resource Management Plans, not the RARE II environmental impact statement, are now the operative land allocation documents for national forests in Idaho and therefor it is these documents which should be referenced with in any release/sufficiency language. The "Montana" language, viewed as a compromise by some, includes some specific references to these new plans, but does not go as far in updating the standard release as some would like.

The Committee recognizes that this is a very controversial issue. It took literally years for the affected parties to negotiate the standard language which has been used since 1983. Some argue that this approach still works and that no changes are necessary. Others contend that the standard language is no longer relevant since the forest plans, not the RARE II EIS, are the basis for forestwide land allocations.

The Committee agreed to amend S. 371 to include the "Montana" language. The Committee is aware that not all parties view

this language as a satisfactory compromise and urge those interested in this issue to see if some agreement can be reached on different language before this measure is considered by the full Senate.

Roads

As introduced, S. 371 included a provision directing the Secretary, after the enactment of the Act, to identify any roads existing in any of the new wilderness areas and to exclude them (along with 50 feet on either side of the centerline) from the affected wilderness. A road is defined as "any parallel track * * * which was in use prior to the enactment of this Act * * * and which may be travelled by four wheel vehicles licensed for highway use by an appropriate State agency. * * *"

This provision was the subject of considerable discussion during the mark-up of S. 371. Normally, roads to be excluded from proposed wilderness areas are identified during the hearing process and either "cherry-stemmed" out (deleted) of the proposed wilderness or included within the proposed area, closed by the appropriate and managing agency, and allowed to revert to a natural condition.

In this instance, despite numerous hearings both in Idaho and Washington, D.C., there remains considerable confusion about the nature and extent of certain roads within some of these proposed wilderness areas. To address this situation, S. 371 included the language referenced above. During the considerations of this measure, the Committee significantly modified this provision. These modifications include: a more precise definition of the term "road"; the identification of certain types of road classifications with specific time tables for considering each; direction to the Secretary and the public regarding the interim use of such roads; and the inclusion of additional specified roads on the boundary maps themselves prior to reporting the bill.

The Committee recognizes that this is a highly unusual procedure. Never before has the Committee adopted such an approach to the establishment of wilderness area boundaries. The Committee strongly emphasizes that inclusion of this language in this measure should not be viewed as a precedent for future wilderness bills.

SECTION-BY-SECTION ANALYSIS

Title I contains findings, purposes, wilderness designations, special management areas, and certain administrative provisions.

Section 101 contains Congressional findings and purposes which are self-explanatory.

Section 102 identifies the 17 individual areas in the State of Idaho to be included within the National Wilderness Preservation System. These areas comprise of total of 1,348,000 acres.

Section 103 establishes 8 special management areas in Idaho comprising approximately 607,760 acres. These areas are to be managed permanently in a accordance with the directives provided in the statute and laws and regulations applicable to the National Forest System.

Section 104 provides standard language concerning the filing of maps and legal descriptions and the administration of the areas.

Title II contains the release-sufficiency language for those national forest lands not designated as wilderness or Special Management areas by this Act.

Subsection 201(a) makes Congressional findings that both the Department of Agriculture and the Congress have reviewed and examined national forest roadless areas in Idaho.

Paragraph 201(b)(1) provides that further judicial review of the RARE II Environmental Impact Statement, insofar as National Forest System lands in Idaho are concerned, is unnecessary.

Paragraphs 201(b)(2) provides that the wilderness studies completed for lands reviewed as part of RARE II, or the unit plans in effect prior to RARE II, are an adequate consideration of the suitability of such lands for inclusion in the wilderness system and that further review of the wilderness option in the context of the first generation of the Land and Resource Management Plans required by section 6 of the National Forest Management Act, is not required. The wilderness option is to be reviewed, however, when the plans are revised. Such revisions ordinarily occur on a 10-year cycle, or at least every 15 years unless the Secretary finds that conditions in a unit have significantly changed.

Subparagraph 201(b)(3) provides that all National Forest lands in Idaho identified in subparagraph (2) and not designated as wilderness or special management by this Act, shall be managed for multiple use in accordance with the forest plans prepared pursuant to the section 6 plans, and that such areas need not be managed to protect their suitability for wilderness designation prior to or during the revision of the initial plans.

Subparagraph 201(b)(4) deals with the management of these lands after the first generation of forest plans is completed. When these plans are revised, lands not recommended for wilderness need not be managed for the purpose of protecting wilderness suitability prior to or during the revision of such plans but areas recommended for wilderness designation shall be managed for the purpose of protecting such suitability as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976, and other applicable law.

It is important to note that while this language, and indeed existing laws, require the wilderness option to be considered in each future planning cycle begun after the initial plans are revised if the particular land still possesses wilderness attributes, the language prohibits the Forest Service from directing that these attributes be preserved solely for the purpose of their future evaluation in the planning process.

Subparagraph 201(b)(5) directs that there be no further Statewide wilderness review of National Forest System lands in the State of Idaho.

Subsections (c) and (d) are clarifying and self-explanatory.

Subsection (e) has been added to the "standard" release/sufficiency language to make it clear that the wilderness suitability review and evaluation of National Forest System lands in Idaho completed as part of the section 6 Land and Resource Management Plans that were completed prior to the enactment of this Act are an adequate consideration of the suitability of such lands for inclu-

sion in the National Wilderness Preservation System and, as provided in subparagraph 201(b)(2), the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the plans, but shall review the wilderness option when the plans are revised.

Title III contains several miscellaneous provisions.

Section 301 relates to grazing in wilderness areas designated by this Act. It provides that grazing, where such use was established prior to the date of enactment of this Act, shall be allowed to continue in accordance with the applicable provisions of the Wilderness Act which shall be interpreted and administered in accordance with the guidelines contained in this report. The report language set forth below was originally included in House Report 96–617 accompanying the Colorado Wilderness bill. Since it has been 10 years since that report was issued, the language has been reprinted in this report.

GRAZING IN NATIONAL FOREST WILDERNESS AREAS

Section 4(d)(4)(2) of the Wilderness Act states: "the grazing of livestock, where established prior to the effective date of this Act, shall be permitted to continue subject to such reasonable regulations as are deemed necessary by the Secretary of Agriculture."

The legislative history of this language is very clear in its intent that livestock grazing, and activities and the necessary facilities to support a livestock grazing program, will be permitted to continue in National Forest wilderness areas, when such grazing was established prior to classification of an area as wilderness.

Including those areas established in the Wilderness Act of 1964, Congress has designated some 188 areas, covering lands administered by the Forest Service, Fish and Wildlife Service, National Park Service and Bureau of Land Management as components of the National Wilderness Preservation System. A number of these areas contain active grazing programs, which are conducted pursuant to existing authorities. In all such cases, when enacting legislation classifying an area as wilderness, it has been the intent of the Congress, based on solid evidence developed by testimony at public hearings, that the practical language of the Wilderness Act would apply to grazing within wilderness areas administered by all Federal agencies, not just the Forest Service. In fact, special language appears in all wilderness legislation, the intent of which is to assure that the applicable provisions of the Wilderness Act, including Section 4(d)(4)(2), will apply to all wilderness areas, regardless of agency jurisdiction.

Further, during the 95th Congress, Congressional committees became increasingly disturbed that, despite the language of section 4(d)(4)((2) of the Wilderness Act and despite a history of nearly 15 years in addressing and providing guidance to the wilderness management agencies for development of wilderness management policies, National

Forest administrative regulations and policies were acting to discourage grazing in wilderness, or unduly restricting on-the-ground activities necessary for proper grazing management. To address this problem, two House Committee on Interior and Insular Affairs Reports (95–620 and 95–1321) specifically provided guidance as to how section 4(d)(4)(2) of the Wilderness Act should be interpreted. This guidance appeared in these reports as follows:

> Section 4(d)(4) of the Wilderness Act states that grazing in wilderness areas, if established prior to designation of the area as wilderness, "shall be permitted to continue subject to such reasonable regulations as are deemed necessary by the Secretary of Agriculture". To clarify any lingering doubts, the committee wishes to stress that this language means that there shall be no curtailment of grazing permits or privileges in an area simply because it is designated as wilderness. As stated in the Forest Service regulations (36 CFR 293.7), grazing in wilderness areas ordinarily will be controlled "under the general regulations governing grazing of livestock on National Forests * * *". This includes the establishment of normal range allotments and allotment management plans. Furthermore, wilderness designation should not prevent the maintenance of existing fences or other livestock management improvements, nor the construction and maintenance of new fences or improvements which are consistent with allotment management plans and/or which are necessary for the protection of the range.

Despite the language of these two reports, RARE II hearings and field inspection trips in the 96th Congress have revealed that National Forest administrative policies on grazing in wilderness are subject to varying interpretations in the field, and are fraught with pronouncements that simply are not in accordance with section 4(d)(4)(2) of the Wilderness Act. This has led to demands on the part of grazing permittees that section 4(d)(4)(2) of the Wilderness Act be amended to clarify the intentions of Congress. However, because of the great diversity of conditions under which grazing uses (including different classes of livestock) is managed on the public lands, the Committee feels that the original broad language of the Wilderness Act is best left unchanged. Any attempts to draft specific statutory language covering grazing in the entire wilderness system (presently administered by four separate agencies in two different Departments) might prove to be unduly rigid in a specific area, and deprive the land management agencies of flexible opportunities to manage grazing in a creative and realistic site specific fashion. Therefore, the Committee declined to amend section 4(d)(4)(2) of the Wilderness Act, opting instead for a reaffirmation of the 4(d)(4)(2) of

the Wilderness language in section 5 of H.R. 5487 and for the following nationwide guidelines and specific statements of legislative policy. It is the intention of the Committee that these guidelines and policies be considered in the overall context of the purposes and direction of the Wilderness Act of 1964 and this Act, and that they be promptly, fully, and diligently implemented and made available to Forest Service personnel at all levels and to all holders of permits for grazing in National Forest Wilderness areas:

1. There shall be no curtailments of grazing in wilderness areas simply because an area is, or has been designated as wilderness, nor should wilderness designations be used as an excuse by administrators to slowly "phase out" grazing. Any adjustments in the numbers of livestock permitted to graze in wilderness areas should be made as a result of revisions in the normal grazing and land management planning and policy setting process, giving consideration to legal mandates, range condition, and the protection of the range resource from deterioration.

It is anticipated that the numbers of livestock permitted to graze in wilderness would remain at the approximate levels existing at the time an area enters the wilderness system. If land management plans reveal conclusively that increased livestock numbers or animal unit months (AUMs) could be made available with no adverse impact on wilderness values such as plant communities, primitive recreation, and wildlife populations or habitat, some increases in AUMs may be permissible. This is not to imply, however, that wilderness lends itself to AUM or livestock increases and construction of substantial new facilities that might be appropriate for intensive grazing management in non-wilderness areas.

2. The maintenance of supporting facilities, existing in an area prior to its classification as wilderness (including fences, line cabins, water wells and lines, stock tanks, etc.), is permissible in wilderness. Where practical alternatives do not exist, maintenance or other activities may be accomplished through the occasional use of motorized equipment. This may include, for example, the use of backhoes to maintain stock ponds, pickup trucks for major fence repairs, or specialized equipment to repair stock watering facilities. Such occasional use of motorized equipment should be expressly authorized in the grazing permits for the area involved. The use of motorized equipment should be based on a rule of practical necessity and reasonableness. For example, motorized equipment need not be allowed for the placement of small quantities of salt or other activities where such activities can reasonably and practically be accomplished on horseback or foot. On the other hand it may be appropriate to permit the occasional use of motorized equipment to haul large quantities of salt to distribution points. Moreover, under the rule of reasonableness, occasional use of motorized equipment should be permitted

where practical alternatives are not available and such use would not have a significant adverse impact on the natural environment. Such motorized equipment uses will normally only be permitted in those portions of a wilderness area where they had occurred prior to the areas's designation as wilderness or are established by prior agreement.

3. The replacement or reconstruction of deteriorated facilities or improvements should not be required to be accomplished using "natural materials," unless the material and labor costs of using natural materials are such that their use would not impose unreasonable additional costs on grazing permittees.

4. The construction of new improvements or replacement of deteriorated facilities in wilderness is permissible if in accordance with these guidelines and management plans governing the area involved. However, the construction of new improvements should be primarily for the purpose of resource protection and the more effective management of these resources rather than to accommodate increased numbers of livestock.

5. The use of motorized equipment for emergency purposes such as rescuing sick animals or the placement of feed in emergency situations is also permissible. This privilege is to be exercised only in true emergencies, and should not be abused by permittees.

In summary, subject to the conditions and policies outlined in this report, the general rule of thumb on grazing management in wilderness should be that activities or facilities established prior to the date of an area's designation as wilderness should be allowed to remain in place and may be replaced when necessary for the permittee to properly administer the grazing program. Thus, if livestock grazing activities and facilities were established in an area at the time Congress determined that the area was suitable for wilderness and placed the specific area in the wilderness system, they should be allowed to continue. With respect to areas designated as wilderness prior to the date of this Act, these guidelines shall not be considered as a direction to reestablish uses where such uses have been discontinued.

Section 302 contains provisions concerning the reservation of water or water rights in the wilderness and Special Management Areas desingated by this Act. The language provides that with respect to these lands, nothing in this Act, or the Wilderness Act shall constitute, or be construed to constitute, either an express or implied reservation of water or water rights for any purpose. The Secretary may acquire such water rights as he deems necessary to carry out his responsibilities on these lands in accordance with the substantive and procedural requirements of the laws of the State of Idaho. The section also includes a savings clause providing that nothing in this section shall affect any reserved water right which the United States may have previously acquired with respect to the lands designated as wilderness or special management by this Act

for the primary purposes for which such lands had been originally withdrawn from the public domain.

The Committee notes that it has reported, and the Congress has enacted, wilderness legislation containing different language regarding Federal reserved water rights in wilderness areas. The adoption of the language in this bill is consistent with the Committee's view that the formulation of water rights language for wilderness bills may vary from State to State or even between areas in the same bill. Because of the sensitivity of this issue and because circumstance may vary from State to State and area to area, the Committee will continue to give considerable weight to the affected State delegations in the formulation of provisions relating to Federal reserved water rights.

Section 303 is self-explanatory.

Section 304 deals with the utilization of, and access to, necessary sanitation facilities in wilderness areas designated by this Act needed to insure the continued health and safety of communities served by watersheds in these wilderness areas.

Section 305 contains provisions permitting helicopter access to wilderness and Special Management Areas in Idaho for emergency and fish and game purposes by appropriate State and Federal agencies. The Committee agreed to retain the provisions regarding helicopter access for fish and game purposes but wants to emphasize that such authority is not unlimited. While the Committee is supportive of many of the innovative efforts of the Idaho Fish and Game Department to manage fish and wildlife species and conduct related monitoring, survey and enforcement activities in remote areas, coordination and communication between the State, Forest Service, and other appropriate agencies is essential to minimize the impacts of these activities on the wilderness.

Section 306 and 307 are self-explanatory.

Section 308 provides for the landing of aircraft at backcountry airstrips in wilderness and Special Management Areas in Idaho where that use has been established prior to the date of enactment of this Act. Such strips located on Federal lands; that is, not privately owned, shall not be closed by the Secretary and shall be maintained in operating condition by the Secretary so as to permit continued public use. The language regarding maintenance was included as a result of the Committee's understanding that in the past, the Forest Service has agreed not to close backcountry airstrips in response to Congressional directives, but has then not maintained the strips, thus rendering them unsafe and unusable.

With regard to backcountry airstrips on privately owned lands in wilderness or Special Management Areas in Idaho, the Secretary is not required to maintain these strips but he is not to take actions to close them. Should the Secretary acquire lands on which such airstrips are located, he is directed to maintain them and is not to close them without the express written concurrence of the appropriate Idaho State agency charged with evaluating the safety of backcountry airstrips.

Finally, subsection (d) was added to give the Secretary the ability to temporarily close these strips for emergency purposes, to protect the health and safety of the public, or to provide necessary maintenance at the airstrips. The Committee will monitor the Secretary's

use of this temporary closure authority to ensure that it is not used to frustrate the clear intent of the statute.

Section 309 provides for the identification and inventory of historic structures in wilderness areas designated by this Act. The language is taken from the River of No Return Wilderness legislation enacted in 1980 (Public Law 96-312). The provisions are self-explanatory.

Section 310 contains provisions regarding the acquisition of lands in the wilderness and Special Management Areas designated by this Act. The Secretary is to promptly identify all non-federally owned lands in these areas. With respect to lands identified as belonging to the State of Idaho or any political subdivision thereof, the Secretary may acquire these lands only by exchange. The Secretary is directed to make every reasonable effort to acquire such lands by exchange as expeditiously as possible. The Committee strongly encourages the Secretary and the State of Idaho to work out an acceptable land trade so that the State can obtain lands outside these areas that it can utilize for economic development and, at the same time, inholdings within the wilderness and Special Management Areas can be reduced. Any exchange of lands made pursuant to this Act is to be carried out in accordance with existing law including the applicable provisions and limitations of the Federal Land Policy and Management Act regarding appraisals, equal value, cash equalization, interstate exchanges, etc.

Section 311 provides guidance to the Secretary regarding the maintenance and establishment of outfitter and guide camps in wilderness and Special Management Areas in Idaho. The language is self-explanatory.

Section 312 establishes a procedure for identifying roads associated with the wilderness areas designated by this Act and sets forth a mechanism for opening and/or closing such roads, as appropriate.

Subsection (a) defines the term "road". It should be noted that to qualify as a road, the route of travel must, among other things, have received significant regular or seasonal use prior to February 1, 1989, approximately the date S. 371 was introduced. It is important that only routes of travel in use prior to that date be considered by the Secretary under this procedure. The Committee emphasizes that this language is meant to insure that the procedures set forth in this section are to be used to deal with existing roads, not as a mechanism for establishing new ones.

Section (b)(1) directs the Secretary to review, within 1 year after the date of enactment of this Act, the approximately 50 miles of potential roads within the wilderness boundaries which are depicted on the maps referenced in section 102. The Secretary is to determine whether these potential roads meet the definition of a road as defined in subsection (a).

Paragraph (2) directs the Secretary, within 2 years from the date of enactment of the Act, to identify any other potential roads located within the boundaries of the wilderness areas designated by this Act.

Paragraph (3) directs the Secretary, within 2 years after the date of enactment of this Act, to review the approximately 80 miles of roads which have been excluded from the wilderness boundaries, as

depicted on the appropriate maps referenced in S. 371, to determine if these roads meet the definition in subsection (a).

Subsection (c)(1) provides that, except as specifically provided in this Act and the Wilderness Act, all roads and other routes of travel within the wilderness areas designated by this Act shall be closed to vehicular traffic in accordance with the provisions of the Wilderness Act.

Paragraph (2) states that prior to the completion of the 1-year review period, the approximately 50 miles of potential roads identified in (b)(1) are to remain open unless the Secretary determines that the potential road is likely not to meet the definition of a road set forth in (a), in which case it shall be closed.

Paragraph (3) provides that prior to the completion of the 2-year review period, any other potential road inside the wilderness boundaries shall remain closed unless the Secretary determines that it will likely meet the definition of a road set forth in (a), in which case it shall be opened.

Subsection (d)(1) directs the Secretary, upon completion of each review required in subsection (b), to publish a list of each road in the Federal Register, including a map and legal description of each. This list is to include any road found by the Secretary to meet the definition of a road pursuant to a review conducted under subsection (b) (1) or (2); or found by the Secretary not to meet such definition as a result of a review conducted under subsection (b)(3).

Paragraph (2) is self-explanatory.

Paragraph (3) is self-explanatory.

Paragraph (4) provides that not later than 60 days after the publication of a list as provided in (d)(1), the Secretary is to open any road designated on the list as meeting the definition of a road as defined in subsection (a) and to close any road or potential road not meeting such definition.

Subsection (e)(1) states that all decisions of the Secretary regarding the reviews conducted pursuant to subsection (b) are to be final if not appealed within 5 years from the date the list associated with such review is published.

Paragraph (2) provides that any road opened or closed by the Secretary pursuant to (d)(4) shall retain that status during the process of any appeal.

Paragraph (3) directs the Secretary, upon the final judgment of any appeal with respect to a review under subsection (b), to modify the wilderness boundaries to exclude any road (along with 50 feet on either side of the centerline) found to meet the definition in subsection (a) and to modify such boundaries to include any road (or in this case a potential road) within the wilderness that is found to not meet the definition in subsection (a).

Subsection (f)(1) makes it clear that during the period of review and appeal provided for in this section, the Secretary may use his existing authority to temporarily open or close roads for normal administrative and related purposes.

Paragraph (2) provides that should a road be excluded from a wilderness area as a result of this process, it is thereafter to be subject to all applicable forest system laws, rules, and regulations.

The Committee added subsection (f) to give the Secretary some flexibility in implementing the provisions of this section and to

ensure that if a road is ultimately excluded from a wilderness area, it will be treated like any other road on national forest land. It is not meant to be used by the Secretary to circumvent the intent of the Committee as expressed elsewhere in this report or in the Act itself.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of the cost of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 1, 1989.

Hon. J. BENNETT JOHNSTON, Jr.,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 371, the Idaho Forest Management Act of 1989, as ordered reported by the Senate Committee on Energy and Natural Resources on October 4, 1989. We estimate that implementation of this bill would cost $500,000 over the next two fiscal years, assuming appropriation of the necessary funds.

S. 371 would designate about 1.35 million acres of land in Idaho as wilderness. The bill would also create eight special management areas covering about 608,000 acres of land in which specified activities such as timber harvesting and road building would be allowed. Approximately 7 million acres of land in Idaho would be released from further wilderness consideration and would be available for other multiple uses. The bill would also—

Require that, within one year of the bill's enactment, the Department of Agriculture (USDA) review and report on grazing in the wilderness areas in Idaho;

Require the federal government to acquire any necessary water rights for the wilderness areas pursuant to state law;

Prohibit the creation of buffer zones around wilderness areas;

Require USDA to continue to assess the mineral development potential of wilderness areas;

Require USDA and the Department of the Interior to cooperate with the State of Idaho in producing an inventory of structures within wilderness areas, and to submit a report on the location, historic significance and cost of restoring these structures;

Authorize USDA to acquire, by exchange only, private land within wilderness and special management areas;

Permit specified activities within the wilderness areas; and,

Define the term "road", and establish a seven year procedure for the review and classification of potential roads within wilderness and other specified areas.

Based on information from the Forest Service and the Department of the Interior, CBO estimates that enactment of S. 371 would result in additional costs to the Federal Government totaling about $500,000 over the next two fiscal years. These costs include

$300,000 for various management activities related to the wilderness designations, including signs, maps, and the development of boundaries, and $200,000 for the inventory of structures within wilderness areas. For the purposes of this estimate, we assumed that the necessary funds would be appropriated each year. Subsequent additional annual operations and maintenance costs are not expected to be significant.

We do not expect enactment of this bill to affect the budgets of state or local governments.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Theresa Gullo, who can be reached at 226-2860.

Sincerely,

ROBERT D. REISCHAUER,
Director.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 371. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact of personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 371, as reported.

EXECUTIVE COMMUNICATIONS

On June 22, 1989, the Committee on Energy and Natural Resources requested legislative reports from the Department of Agriculture and the Office of Management and Budget setting forth executive views on S. 371. These reports had not been received at the time the report on S. 371 was filed. When the reports become available, the chairman will request that they be printed in the Congressional Record for the advice of the Senate. The testimony provided by the appropriate agency at the Subcommittee hearing follows:

STATEMENT OF F. DALE ROBERTSON, CHIEF, FOREST SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Mr. Chairman and members of the subcommittee; Thank you for this opportunity to present our views on S. 371, the "Idaho Forest Management Act of 1989."

I am accompanied today by John Mumma, Regional Forester for the Northern Region and Tom Roederer, Deputy Regional Forester for the Intermountain Region.

We support S. 371, with amendments to address our concerns with certain proposed wilderness designations and boundaries, the special management requirements, and release and sufficiency language.

S. 371 would designate slightly more than 1.4 million acres of National Forest wilderness in Idaho. The bill would also designate

about 650,000 acres of other special management areas within the National Forests in Idaho.

Of the 20.4 million acres of National Forest System land in Idaho, 19 percent, or nearly 4 million acres are now wilderness. Idaho contains more wilderness than any other State, except, Alaska, both in terms of total acreage and as a percent of the State's land area (7.1 percent). In fact, Idaho wilderness comprises 19 percent of all wilderness acreage in the United States outside Alaska. Other designations, including the Hells Canyon and Sawtooth National Recreation Area and 508 miles of National Wild and Scenic Rivers on six different rivers, indicate the extent to which these aspects of Idaho's natural resources have already been recognized and established in special management statutes.

As you know, Mr. Chairman, we have been working for several years to complete Land and Resources Management Plans for each National Forest. Final plans have been completed for all of the National Forests in Idaho except the Boise National Forest. We expect to complete the Boise plan by this winter.

The Forest plans are the basis for our views on the wilderness and special area designations in S. 371. From a state-wide perspective, S. 371 would designate about 1.4 million acres of wilderness. Our Forest plans recommend wilderness designation for about 1.3 million acres. In many cases, the designations in the bill are similar to those recommended in the Forest plans.

We support appropriate additions to the wilderness system in Idaho for two major reasons. First, there are several additional National Forest areas in Idaho that are suitable for wilderness, and they should be added to the National Wilderness Preservation System. Second, we believe it is important that the uncertainty over future management of roadless areas within the National Forests in Idaho be resolved as soon as reasonably possible.

This uncertainty is adversely affecting our ability to provide a balance of resources and uses. We want to contribute to a stable and diverse economy for Idaho and the Nation over the long run. We also want to provide opportunities for diverse recreational experiences, and we are committed to providing an enduring resource of high-quality wilderness within the National Forest System.

Over the next decade, about 28 percent of the timber volume scheduled for sale in Idaho's National Forests is proposed to come from areas currently inventoried as roadless. For the last decade, while forest planning was in progress, our timber sales program in Idaho has been concentrated in roaded areas, because appeals have blocked proposed sales in some roadless areas. Many of these appeals involve the question of whether those areas should be managed for uses other than wilderness.

We believe that S. 371, with some modifications, would help resolve the uncertainty and controversy surrounding implementation of National Forest plans in Idaho.

Wilderness designations

We support the following wildernesses with a few minor boundary modifications to minimize resource or management conflicts: Borah Peak, Italian Peaks, Lionhead, Winegar Hole, Mt. Naomi, Salmo-Priest, and Scotchman Peaks.

We also support the following wildernesses, but we would like to work with the Committee to discuss some of our concerns about boundaries: Secesh-Payette Crest, Mallard-Larkin, the Hanson Lakes portion of the Sawtooth Additions, White Cloud-Boulder, Pioneer Mountains, Kelly/Cayuse, and Selkirk Crest.

S. 371 would designate two wildernesses (Palisades and Snowbank) that are not recommended in our Forest Plans. The Palisades Roadless Area is adjacent to a 135,800-acre Wilderness Study Area designated by the Wyoming Wilderness Act of 1984. For this reason, we recommend, consistent with the Forest Plan, to defer the wilderness decision until a separate wilderness study could be completed for the entire Palisades Roadless Area covering both Idaho and Wyoming.

We do not recommend wilderness designation for the Snowbank area, consistent with the Forest Plan, because it has low to moderate wilderness characteristics and is used for gathering firewood and snowmobiling.

S. 371 would authorize certain uses that are normally not permitted in wildrness. As a general principle, we would rather see the wilderness boundaries adjusted, where practical, to exclude areas where these uses occur. Our concerns relate to roads, helicopter skiing, and motorized access.

Roads

The bill defines "roads", and we would be required to exclude such roads from the wildernesses designated by the act. We would prefer that areas proposed for wilderness designation containing roads be excluded before the bill is enacted.

Helicopter skiing

S. 371 would permit helicopter landings for recreational skiing in the Palisades Wilderness. If the Palisades area is designated as wilderness, we recommend that the boundary be adjusted to exclude the area now used for helicopter access.

Motorized access

Motorized access by local municipalities for the maintenance of watershed facilities within wilderness would be permitted. We recommend that areas requiring such maintenance be excluded from designated wildernesses.

Special management areas

We have concerns with S. 371's designation of management areas and the restrictions that would be imposed upon these areas. We believe that management direction of special management areas should be provided in Forest plans rather than in statute. The Forest plans provide the opportunity to re-examine the future management of an area in light of experience, new information, and public expectations and demands. The National Forest Management Act requires us to update the Forest plans through monitoring, evaluation, amendment and revision. The public is fully involved in any decision to change management direction.

Even though the management requirements in S. 371 for the special management areas are generally similar to those in the cur-

rent Forest plans, we would like to have the opportunity to make adjustments through the Forest planning process to reflect changing conditions. We recommend that these specific management requirements be deleted, such as designating the Allowable Sale Quantity for the Bonner's Ferry Ranger District on the Idaho Panhandle National Forest. An alternative would be to provide a "sunset" for these statutory management requirements so that they would be effective only for the next 10 to 15 years until the next significant revision or amendment of the Forest Plans.

Grazing

With respect to grazing within wildernesses, S. 371 would permit motorized vehicle access, water developments, and predator control to continue if established prior to enactment. We recommend that this language be revised to be consistent with the Wilderness Act and the "grazing guidelines" provided in 1979 by the House Interior and Insular Affairs Committee (House Report 96-617). These guidelines are being followed in all other National Forest wildernesses.

Water rights

It is clear that no new Federal water rights would be created as a result of the wilderness or special management area designations in S. 371. Because the areas that would be designated are within National Forest boundaries that are at the tops of watersheds and encompass the headwaters of streams within them, we would not need, nor do we intend to seek, additional water rights for protection and management of wilderness values in these areas.

"Release" and "sufficiency" language

As I mentioned earlier, we think it is essential that the Congress resolve the uncertainty over future management of roadless areas within the National Forests in Idaho. Thus, we urge the subcommittee to carefully consider the "release" and "sufficiency" language in section 201.

"Release" and "sufficiency" are related, but separate, concepts. Release language provides a legislative declaration that lands not included by Congress in a wilderness, wilderness study area, or special management area shall be managed for multiple-use values in accordance with the Forest plans. Sufficiency language provides a legislative declaration that the Forest Service review of wilderness issues is legally sufficient and not subject to judicial review.

The original "RARE II language"—like that in S. 371—was intended to remove the wilderness question from judicial review and to promote some certainty in resource management. However, as Forest plans are completed, the RARE II language becomes moot, because the Forest plan recommendations supercede RARE II. This is particularly significant in Idaho, since all but one of the forest plans have been completed.

Retaining the RARE II language in National Forest wilderness legislation for Idaho might cause further litigation to determine the relationship of the RARE II language to the Forest plans, thus adding to the uncertainty over management of lands not designated as wilderness or another special category. Updating the RARE

II language would help promote more certainty, but would not guarantee it. The updated language would more clearly spell out congressional intent, and thus be helpful in resolving both administrative appeals and litigation that might arise after enactment of S. 371 or similar legislation.

We recommend that the release and sufficiency language in this S. 371 be updataed to reflect that the Forest Land and Resource Management Plans—rather than the RARE II recommendations—provide the basis for congressional release and the congressional determination of sufficiency. We would like to work with the subcommittee in drafting suitable language to replace that now in section 201.

State of Idaho

We have been advised by the Department of Justice that section 305 and section 308 contain provisions which would require concurrence of the State of Idaho prior to the Secretary making decisions on Federal lands. These provisions raise serious constitutional concerns. We understand that the Department of Justice will send the Committee an opinion concerning this issue shortly.

In summary, Mr. Chairman, we support the Committee's effort to resolve the wilderness/nonwilderness issue that is seriously affecting National Forest management, and the people of the Nation. We look forward to continuing to work with the Subcommittee as you consider our recommendations in the supplement statement that is attached to my testimony.

We will be happy to respond to your questions or to provide additional information.

SUPPLEMENTAL STATEMENT—U.S. DEPARTMENT OF AGRICULTURE

S. 371. "The Idaho Forest Management Act of 1989."

Wilderness Areas—Proposed

Salmo-Priest Wilderness (Section 102(a))

Idaho Panhandle National Forests

S. 371 recommends that 22,600 acres along the Idaho, Washington state line be added to the National Wilderness Preservation System. This would be an addition to the existing Salmo-Priest Wilderness in the State of Washington.

Significant wilderness values identified by the public the land management planning process include: a proposed Wild River (Upper Priest), large old-growth forests, fish habitat; and diverse habitat types. A Research Natural Area (RNA) is within the proposed wilderness boundary.

The Forest Land and Resource Management Plan recommends 17,585 acres be added to the National Wilderness Preservation System. About 16,200 acres are common between what is recommended in the Forest Plan and what is proposed in S. 371.

The wilderness acreage recommended in the Forest Plan does not include the Hughes Meadows area because of the conflict between wildreness and existing snowmobile use. The Forest Plan does not

recommend wilderness designation for the roaded area north of Cabinet Pass. Leaving this long intrusion into wilderness would complicate management of the area and degrade wilderness values.

We recommend that S. 371 be amended to reflect the recommendations in the Forest Plan.

Selkirk Crest Wilderness (Section 102(b))

Idaho Panhandle National Forest

S. 371 recommends 54,800 acres added to the National Wilderness Preservation System. The bill also proposes a land exchange to acquire approximately 15,440 acres of contiguous land currently owned by the State of Idaho. It directs that any such State land exchanged into the National Forest System be added to the wilderness. The Selkirk Crest is the southern extension of the Selkirk Range and contains many scenic peaks, snowfields, and scenic mountain lakes. These outstanding values have been recognized through special administrative designation in the Forest Plan. The area has received support for wilderness with little opposition.

The Forest's Land and Resource Management Plan recommends 26,658 acres be add to the Natonal Wilderness Preservation System. About 6,000 acres are common between what is recommended in the Forest Plan and what is proposed in S. 371.

The Forest Plan does not recommend most of Long Canyon and Parker Canyon for wilderness, but would manage them as roadless areas.

We recommend that the Forest Plan boundary be adopted.

Scotchman Peaks Wilderness (Section 102(c))

Idaho Panhandle National Forests

S. 371 proposes to add approximately 14,950 acres to the National Wilderness Preservation System. The recommended area is immediately adjacent to the Montana Scotchman Peaks area, which was included in Montana wilderness legislation enacted in the 100th Congress and vetoed by the President. The Scotchman's Peak area has had longstanding support for wilderness, with little specific opposition.

The Forest's Land and Resource Management Plan recommends that 11,232 acres be added to the National Wilderness Preservation System. About 10,400 acres are common between what is recommended in the Forest Plan and what is proposed in S. 371.

S. 371 includes an area in which Cominco has conducted exploratory drilling in the past 2 years. The bill also includes part of the old Savage Creek Timber Sale which was intensively roaded. For these reasons, we recommend that this portion of the bill be amended to reflect the wildreness boundary recommended as a result of the forest planning process.

Mallard-Larkins Wilderness (Section 102(d))

Clearwater and Idaho Panhandle National Forests

S. 371 recommends 152,100 acres for inclusion in the National Wilderness Preservation System. The proposed boundary include approximately 4,000 acres of the existing St. Joe Wild River. A por-

tion of the little North Fork of the Clearwater, an inventoried Wild and Scenic River, is within this proposal. Also included is the entire Mallard-Larkins Pioneer Area (an administrative designation). The proposed Bacon Lake Research Natural Area is entirely within this proposal.

The Forest Land and Resource Management Plans recommends 145,227 acres be added to the National Wilderness Preservation System. About 115,000 acres are common between what is recommended in the Forest Plans and what is proposed in S. 371. The Forest Plans did not include the St. Joe Wild River corridor nor did they include any of the Chamberlain Mountain area.

The acres above Forest Plan recommendations would decrease opportunities for mineral prospecting and for timber management. For these reasons, we recommend the bill be amended to incorporate the boundaries recommended in the Forest Plans.

Kelly-Cayuse Wilderness (Section 102(e))

Clearwater National Forest

S. 371 recommends 142,250 acres in Idaho be added to the National Wilderness Preservation System. There are an additional 90,000 acres of partially contiguous roadless area in Montana that were proposed for wilderness (Great Burn Wilderness) in the 100th Congress. Because of the natural beauty and size of the area, the high-divide country with numerous peaks above 7,000 feet, and a variety of broad and narrow glaciated valleys and ridges, the area is well suited for wilderness use.

In the Forest Land and Resource Management Plan, the Clearwater National Forest recommended 113,000 acres be added to the National Wilderness Preservation System. Only 50,400 acres are common to what is recommended in the Forest Plan and what is proposed in S. 371. The Forest Plan boundaries also match up with the Montana section of the Kelly-Cayuse Wilderness boundaries in the Lolo National Forest Plan. The boundaries in S. 371 do not match with the Montana recommended boundaries which would create boundaries difficult to manage.

There is moderately productive timber land in the areas in not recommended for wilderness designation by the Forest Plan that would be designated if S. 371 were enacted. We recommend the bill be amended to reflect the recommendations of the forest planning process.

Secesh-Payette Crest Wilderness (Section 102(f))

Payette National Forest

S. 371 would designate 263,100 acres as wilderness compared to Forest Plan reoommendations of 212,583 acres. The Forest Plan boundaries recognize terrain features that would make the wilderness more manageable and tend to eliminate conflicting uses. The bill would include areas of established motorized trail use and areas of high mineral potential. We recommend amendment of the bill to reflect these considerations.

Snowbank Wilderness (Section 102(g))

Boise National Forest

The 9,300 acres that would be designated are not recommended for wilderness designation in the Forest Plan. The area is popular for snowmobiling. This area has low to moderate wilderness characteristics.

Red Mountain Wilderness (Section 102(h))

Boise National Forest

S. 371 would designate 66,200 acres as wilderness compared to the Forest Plan recommendation of 93,470 acres. The Forest Plan recommendation was based on strong public support for wilderness classification of this area. The Forest Plan excludes potential timber sales on the western boundary and includes high wilderness potential in the Warm Springs drainage.

Sawtooth Additions (Section 102(i))

Boise, Challis and Sawtooth National Forest

We believe there is a miscalculation in the acreage (202,900 acres) cited in the bill for this area. Our data indicate that 136,700 acres is correct. Forest Plans recommend approximately 107,400 acres (Hansen Lakes, 33,800 acres and Tenmile-Black Warrior, 73,600 acres) of wilderness designation. The boundaries recommended in the Forest Plan are preferred, as they create a definable, manageable boundary and would eliminate some past mining activities in the Black Warrior and East Fork Swanholm drainages and timber management activities along the South Fork Payette River.

White Cloud-Boulder Wilderness (Section 102(j))

Challis and Sawooth National Forest

While we prefer the 224,350-acre wilderness recommendation in the Forest Plans, the 157,200 acres proposed for designation in S. 371 would not have a major effect on the management of the area. Most of the area is within the Sawtooth National Recreation Area and is withdrawn from mineral entry. The timber resource is negligible. We do not oppose the boundaries proposed in the bill.

Pioneer Wilderness (Section 102(k))

Challis and Sawtooth National Forest

The bill would designate 113,100 acres as wilderness compared to recommendations in Forest Plans of 109,911 acres. The boundaries in the Forest Plans are recommended, as they would provide a more manageable boundary, particulary from an off-road vehicle and minerals management standpoint. Our recommendations also include high quality wilderness resources on the Challis National Forest in Custer County.

Borah Peak Wilderness (Section 102(l))

Challis National Forest

The Forest Plan recommend 119,000 acres of wilderness for this area compared to 54,500 that would be designated by the bill. We do not strongly oppose the designation in S. 371, but we would like to work with the Committee to improve the boundary location.

Italian Peaks Wilderness (Section 102(m))

Challis National Forest

We support the designation proposed by S. 371, as there is only a 3,800-acre difference between the 54,600 acres in the bill compared to the 50,820 acres recommended in the Forest Plans. We would like to work with the Committee to ensure no conflicts are present due to boundary differences between the bill and the plans.

Lionhead Wilderness (Section 102(n))

Targhee National Forest

The difference between the 14,400 acres recommended in the Forest Plan and the 13,500 acres proposed in S. 371 does not represent any serious conflict. We support this proposed designation.

Wingear Hole Addition (Section 102(o))

Targhee National Forest

We recommend some minor boundary modification to accommodate the difference between the 3,500 acres recommended in the bill and the 2,000-acre proposal in the Forest Plan.

Palisades Wilderness (Section 102(p))

Targhee National Forest

S. 371 would designate three separate roadless areas (Palisades, Poker Peak and Bear Creek) as the Palisades Wilderness. We do not oppose wilderness designation for this area. The Wyoming Wilderness Act of 1984 provided that the Palisades Wilderness Study Area in Wyoming would be reviewed for its potential for inclusion into the National Wilderness Preservation System upon revision of the initial Land and Resource Management Plans. However, we recommend that we work with the Committee to adjust proposed boundaries to minimize impacts upon existing mineral leases in the area.

We oppose permitting helicopter landings in the area for the purpose of commercial skiing. The use of mechanized equipment and commercial activity are both in direct conflict with the Wilderness Act.

Mt. Naomi Wilderness (Section 102(q))

Caribou National Forest

S. 371 would designate 18,100 acres as wilderness compared to Forest Plan recommendations of 14,600 acres. We do not oppose the proposal in the bill, but would like to work with the Committee to place the boundary on a more manageable location in certain

areas. In addition, we recommend that the Utah Wilderness Act of 1984 be amended to designate as wilderness the narrow corridor which would exist between the Mt. Naomi Wilderness in Idaho and the Mt. Naomi Wilderness in Utah.

SPECIAL MANAGEMENT AREAS

The special management requirements in S. 371 would preclude the ability of the Forest Service to examine future management options every 10–15 years through the Forest planning process. We recommend that these specific management requirements be deleted, an alternative would be to provide a "sunset" for these statutory management requirements so that they would be effective only for the next 10–15 years or until the next significant revision or amendment of the Forest Plans.

Bonner's Ferry Special Management Area (Section 103(a)(1))

Idaho Panhandle National Forest

S. 371 would prescribe an increase in the allowable sale quantity (ASQ) of 3.5 million board feet for the Bonner's Ferry Ranger District. This is an increase above the planned levels and would come from an area that is primarily grizzly bear habitat. This section would also set the annual ASQ for the Bonner's Ferry Ranger District and for the Idaho Panhandle National Forests for the first planning period.

We oppose such prescriptive language, because we believe the intent of the National Forest Management Act was for the Forest planning process to determine the Allowable Sale Quantity in balance with all other resource values.

Clearwater Special Management Area (Section 103(a)(2))

Clearwater and Idaho Panhandle National Forests

S. 371 recommends areas in Upper Skull Creek and Minnesaka Creek within the Clearwater National Forest and areas in Foehl Creek, Buck Creek, and a portion of the upper St. Joe River drainage within the Idaho Panhandle National Forests as a Special Management Area to be managed to maintain high quality wildlife and fishery objectives while producing timber from the productive land. These areas are part of the Mallard-Larkins roadless area. The management of this Special Management Area in S. 371 is essentially the same as in the Forest Plan.

East Weitas Special Management Area (Section 103(a)(3))

Clearwater National Forest

The bill would designate 26,100 acres along the east side of Weitas Creek as a Special Management Area to maintain high quality wildlife and fishery objectives while producing timber from the suitable lands. The area would managed for timber, but timber harvest would occur in later decades as the existing stands are immature. The management of this Special Management Area in S. 371 is essentially the same as contained in the Forest Plan.

Cook Mountain Special Management Area (Section 104(a)(4))

The bill would designate 77,100 acres as a Special Management Area to maximize big-game habitat which is in accordance with the Forest Plan.

French Creek Special Management Area (Section 103(a)(5))

Payette National Forest

The bill would designate 157,000 acres in the vicinity of French Creek as a Special Management Area managed to improve wildlife and fishery resources while producing timber from suitable lands. New roads would be constructed for the purpose of timber harvest and management, provided that any such roads would comply with road density standards for the elk management unit in which they are to be constructed and such roads would be closed to public motorized use. Grazing lands within the area would be subject to extensive management and, where appropriate to protect fish and wildlife habitat on a site-specific basis, to intensive management practices. Fish habitat and water quality within the area would be maintained or improved. The management prescribed in the bill is essentially the same as that contained in the Payette National Forest Land and Resource Plan.

South Fork Special Management Area (Section 103(a)(6)(a))

Payette National Forest

The bill would designate 84,200 acres within the South Fork of the Salmon River drainage as a Special Management Area managed to exclude timber harvesting or other commercial activities along the corridor that is generally one half mile from each side of the center of the South Fork of the Salmon River from the confluence with the East Fork of the South Fork, south to the Payette National Forest boundary. Timber management would be allowed in the remainder of the area only to the extent that such activities did not result in increased sediment yields in any tributary of the South Fork. In addition, specific monitoring and mitigation practices would be implemented prior to and during any timber sale activity. These practices are in the Forest Plan and some timber hauling is permitted in the river corridor. Of major concern is the direction which would utilize the BOISET watershed model to monitor sediment deposition in the French Creek Special Management Area. This model is designed to be one element of a decision process in land management. It is not intended as an absolute decision criteria in itself, and we believe that the model would be subject to legal challenges concerning its validity and accuracy if used as an absolute decision criterion.

Lime Creek Special Management Area (Section 103(a)(7))

Sawtooth National Forest

S. 371 would designate 40,500 acres in the Lime Creek area as a Special Management Area. Trails would be designated solely for motorized recreational vehicles. No new trails would be permitted. The Forest Plan would leave the area open to ORV use.

Smokies Special Management Area (Section 103(a)(8))

S. 371 would designate 115,600 acres in the Smoky Mountains as a Special Management Area. Trails within the area would be designated solely for motorized recreational vehicles. No new trails would be permitted.

Title II—Release of Lands for Multiple Use Management

Section 201 contains "standard" release language. We recommend that this release and sufficiency language be updated to reflect the fact that the Forest Land and Resource Management Plans, rather than the RARE II recommendation, provide the basis for congressional release and the congressional determination of sufficiency. We would like to work with the subcommittee in drafting suitable language to replace this section.

Title III—Miscellaneous Provisions

Grazing in Wilderness Areas (Section 301)

With respect to grazing within wildernesses, S. 371 would permit motorized vehicle access, water developments, and predator control to continue if established prior to enactment. We recommend that this language be revised to be consistent with the Wilderness Act and the "grazing guidelines" provided in 1979 by the House Interior and Insular Affairs Committee (House Report 96-617). These guidelines are being followed in all other wildernesses in the National Forest System.

State Water Allocation Authority (Section 302(a))

Under S. 371, it is clear that no new Federal water rights would be created as a result of the wilderness or special management area designations. Because the areas that would be designated by the bill are within National Forest boundaries that are at the tops of watersheds and encompass the headwaters of streams within them, we would not need, nor do we intend to seek, additional water rights for protection and management of wilderness values in these areas.

Prohibition of Buffer Zones (Section 303)

We strongly support this section that would prohibit "buffer zones" around wilderness areas in the State of Idaho.

Mineral Resources (Section 304)

We have no objection to this section that would permit the continuation of assessments of mineral potential within National Forest wilderness areas in Idaho.

Landing of Aircraft (Section 305)

This section would permit the landing of aircraft on lands designated as wilderness within the State of Idaho when such use has been established prior to the enactment of S. 371. It further provides that the Secretary may not close aircraft landing strips within wilderness areas in Idaho without the express written permission of the State.

The Wilderness Act provides for continuing use of aircraft within a wilderness when such use was established prior to designation of the area. However, we oppose granting the State veto power over Federal land decisions that are appropriately under the jurisdiction of the Secretary.

Inventory of Structures Within Wilderness Areas (Section 306(a))

This section would require the Secretary to inventory all structures within areas designated as wilderness by this bill and prepare and report regarding the structures. We do not object to this section, but neither do we regard it as necessary to the purposes of S. 371.

Land Acquisition (Section 307)

We do not object to this section that would require the acquisition of non-Federal lands within the wilderness and special management areas designated by the bill. Such acquisition would be by exchange with respect to non-Federal lands. Private lands would be acquired only on a willing buyer-seller basis by purchase, donation, or exchange.

Outfitted Camps (Section 308)

This section provides specific direction regarding the use of outfitter and guide camps. We recommend that subsection (a) be revised to read:

"The Secretary shall permit, subject to existing wilderness regulation to insure compatibility, the continuance of existing uses, and the future establishment and use of temporary campsites, tent platforms, shelters, and other temporary facilities and equipment directly and necessarily related to such activities. Such facilities and equipment shall be constructed, used and maintained in a manner consistent with the protection of the area in which they are located. Such facilities and equipment shall be subject to removal or proper storage during non-use periods in order to minimize impact on other wilderness users and avoid the appearance of permanent structures in wilderness."

We do not object to subsection 308(b), but we strongly oppose subsection 308(c). We do not agree that "express written concurrence of the agency of the State of Idaho charged with the regulation of the outfitting and guide industry" is appropriate for Federal management decisions that are properly guided by the Wilderness Act and the Forest Land and Resource Management Plans. We recommend this subsection be deleted.

Roads (Section 309)

The bill provides a specific definition of "roads" and such roads incorporated within wilderness boundaries designated by S. 371 would be excluded after enactment. Ths could create some difficult boundary problems. We believe that those areas where roads are felt to be necessary for future use should not be added to the wilderness system.

ADDITIONAL VIEWS OF MR. BUMPERS

During the Committee's consideration of S. 371, I offered a number of amendments to the bill as introduced. The primary purpose of these amendments was to delete or modify provisions in the bill which would have resulted in major changes in wilderness management or set undesirable precedent for forest management practices in general.

A number of these amendments were adopted by the Committee without modification while others were agreed to with some changes. Because many of my suggestions were agreed to by the Committee, I voted to report S. 371 to the Senate. I commend Senator McClure and Idaho's Governor Cecil Andrus for their diligence and hard work in producing a RARE II wilderness bill for Idaho. Having gone through the process myself in Arkansas some years ago, I know how difficult and frustrating it can be to put a package like this together.

Although I voted for the bill, two major aspects of this legislation continue to trouble me.

1. Roads. As introduced, S. 371 included a provision directing the Secretary, following the enactment of the Act, to identify any roads existing in any of the new wilderness areas and to exclude them (along with 50 feet on either side of the centerline) from the affected wilderness. S. 371 defined a road as "any parallel track * * * which was in use prior to the enactment of this Act * * * and which may be travelled by four-wheel vehicles licensed for highway use by an appropriate state agency * * *".

Although my first preference was to strike the language entirely, in an effort to reach a compromise I offered an amendment which was much narrower in scope, provided a new and more restrictive definition of the term "road", ensured that all roads not specifically "cherry-stemmed" out of the wilderness boundary by the Congress were to be closed unless the Secretary of Agriculture made a determination that the road met the more restrictive definition and excluded it from the wilderness, and put a three year time limit on the entire process.

While the language ultimately included in S. 371 includes some of the elements of my proposal (the most notable being the inclusion of the more restrictive definition of a road) I believe the language adopted by the Committee is seriously flawed. It would set up a cumbersome and lengthy process of identification and delineation of potential roads, many of them not currently shown on any map, which could utlimately be excluded from wilderness. The exclusion of these roads, and their use by motorized vehicles, could severely fragment the wilderness areas and destroy the primitive character of many of these spectacular areas. The language also permits a five year period for an appeal of any Secretarial decision

to open or close a road, thus leaving the final boundaries of these wilderness areas in limbo until well into the 1990's.

Most importantly, the language adopted by the Committee would, for the first time, grant the Secretary of Agriculture broad authority to modify wilderness boundaries after a wilderness bill passes the Congress. In the past, the authority to set wilderness boundaries has rested solely with the Congress. Since the establishment of the wilderness system 25 years ago, the Congress, through the process of hearings, Committee business meetings, and floor deliberations, has been able to identify appropriate wilderness boundaries and enact them into law. Embarking on a procedure whereby the Secretary can make significant alterations in these boundaries after the Congress has acted is a serious mistake.

2. Management issues versus wilderness designations. There is a strong precedent in the Senate for giving great weight to the views of the affected state delegation with regard to the designation of wilderness in a particular state. Although there have been exceptions, the Senate has, for the most part, given the two Senators from a particular state considerable leeway in this regard. I support this position and have, except in rare circumstances, respected the desires of the two Senators with regard to wilderness designations in a particular state. I took that position in this bill and did not advocate the change of any wilderness boundary with respect to Idaho.

I am concerned, however, about a growing trend on the part of the Committee and the Congress to also defer to state delegations regarding the management of wilderness areas. More and more the Committee seems to be taking the view that the management of wilderness in a particular state should also be the left up to the two Senators from that state. I believe that this is a dangerous trend and that the wilderness system will suffer if we continue to craft special wilderness management provisions to meet the desires of individual Senators. While the decision to designate or not designate wilderness should largely be made by the appropriate state delegation, we have a national wilderness preservation system that should not be undermined by different management rules and procedures in different states.

DALE BUMPERS.

ADDITIONAL VIEWS OF MR. BINGAMAN

I am concerned with the potential precedent setting aspects of S. 371, the Idaho Forest Management Act. The bill establishes management practices for Idaho wilderness that are inconsistent with the Wilderness Act. Given the Energy and Natural Resources Committee's history of relying on past bills for precedence, I am fearful that similar provisions will be included in future wilderness bills. During the Silver Anniversary year of the Wilderness Act in particular, I think it inappropriate to dilute the Act's original objectives.

In addition, I am uncomfortable with the designation of special management areas, outside of wilderness included in the bill. This bill requires managing the Idaho wilderness differently from the way in which wilderness areas in all other states have been managed since the passage of the Wilderness Act in 1962.

Perhaps the most disturbing part of the bill is Section 312. I am concerned that the bill does not establish the final boundaries of the wilderness; rather it directs the Secretary of Agriculture to make boundary changes to exclude roads after passage of the bill. I believe that the roads should be identified and boundaries adjusted prior to enactment of the bill. The Congress should not delegate its authority to change boundaries to the Executive branch. Additionally, the bill defines a road in a manner that conflicts with prior administrative law dealing with wilderness evaluation.

I am concerned about motorized access within wildernesses that would be permitted under S. 371. While the Wilderness Act allows helicopter use for fish and wildlife management, it intends that it be the minimum necessary. Section 305 of this bill, however, is much more permissive. The bill also permits motorized access for other things such as access to municipal watersheds and grazing developments. I would suggest that we rely on the provisions of the Wilderness Act and the implementation guidelines utilized by the Forest Service to deal with these types of situations rather than addressing them in the bill.

The water rights language in S. 371 for Idaho is inconsistent with previous language for other wilderness areas. Section 302 prohibits Congress from providing water rights for wilderness areas created in this bill. Rather it maintains that the United States may acquire water rights under Idaho State water law, which precludes federal reserved water rights for wilderness as currently provided for all other wilderness.

Section 308 is troublesome in that it grandfathers all existing aircraft landing strips and requires that the Forest Service maintain public strips on National Forest System lands. I believe that the Forest Service should have the capability to evaluate with the appropriate public involvement, including that of the State of Idaho, the need for the various air strips. It makes little sense to

guarantee the existence and maintenance of air strips in perpetuity when demand and use are bound to change over time.

S. 371 stipulates specific management practices for numerous "special management areas". I believe that this is the function of the Forest Service in its forest planning documents. I understand that the majority of the language in the bill that relates to these management areas is derived from the Forest Plans. I see no reason to include this same information in statute. The Forest Service needs the flexibility to periodically review its management practices as part of its Forest Planning process and make necessary adjustments.

JEFF BINGAMAN.

MINORITY VIEWS OF MR. WIRTH

One of the key features of the Wilderness Act of 1964 was that it reserved the power to protect areas as wilderness—or to remove that protection—to the Congress. The Idaho Forest Management Act (S. 371) would give that power away. That is a radical departure from all previous wilderness bills, and one that I must oppose.

The National Wilderness Preservation System has been a stunningly successful and popular creation of the Congress. It has been a model and an inspiration for conservation efforts throughout the world. One of the hallmarks of this system is a consistent, uniform approach to the protection of areas as wilderness. A consistent approach to what is and is not allowed in a wilderness and a consistent policy on how an area can be designated a wilderness or lose that status, is absolutely essential to meaningful public participation in the process of designating wilderness areas. If we change the rules of wilderness, how will people know what it is they are being asked to comment on?

S. 371 includes a variety of provisions that represent incremental assaults on that consistency. There are special provisions for the use of helicopters in wilderness; the creation of entirely new management prescriptions for large areas of national forest ("special management areas") in lieu of either wilderness designation or the continuation of site-specific planning by the forests' managers; and the use of new "release language" never before included in law—language which may only muddy complicated legal issues previously resolved by a difficult-to-forge consensus that took years to work out.

But all of these shortcomings of S. 371 are overshadowed by the bill's reversal of what is absolutely the most basic rule of the Wilderness Act of 1964 and all subsequent wilderness acts: that only Congress can designate an area as wilderness, or remove lands from wilderness status.

Every previous wilderness law has referenced maps of the areas proposed for protection, and has given those maps the force of law. Those maps were the product of the Congress. But section 312 of S. 371, as reported, delegates to the Secretary of Agriculture the final decision on where the boundaries on those maps would be. It directs the Secretary to identify "roads" within the areas designated wilderness by the bill, and then authorizes and directs the Secretary to change wilderness boundaries to remove those "roads" and the lands around them from the wilderness areas shown on the maps referenced by the bill.

In an attempt to show balance, the bill also allows the Secretary to add certain areas to wilderness. But it is my belief that it is solely the responsibility of the Congress to add areas to wilderness, and I object to the addition of wilderness by the Secretary as well as to deletion.

Senator McClure may argue that given his bill's instructions to the Secretary, all we are delegating to the Secretary is the actual drawing of maps. But in fact, the actual drawing of maps is precisely the key responsibility of Members of Congress—both because the maps are the actual instrument of the laws, and because the drawing of maps is central to the balancing of national and local interests that goes into every wilderness designation.

We should recognize, too, that the instructions this bill gives to the Secretary do not hinge on simple and easily determined matters of fact. If identifying what is and what is not a road were a simple task, all the roads in these areas would certainly already have been identified in the decade of hearings, meetings, legislative proposals and public comment on wilderness in Idaho that preceded this bill.

The bill asks the Secretary of identify as roads all "clearly identifiable, well established" routes of travel "which received significant regular or seasonal use prior to February 1, 1989", and "which is capable of being travelled by four wheel vehicles licensed for highway use". Given the controversy which has surrounded the definitions of roads during the Forest Service and Bureau of Land Management roadless area review processes, and the controversy about the agencies' interpretations and implementations of those definitions, it is unreasonable to expect the directions given to the Secretary by this bill to be easily interpreted or implemented.

The premise of this extraordinary proposal seems to be that the Congress should not include any "roads" within areas designated as wilderness. But deciding where wilderness boundaries should be located is not as simple as merely putting a line around a roadless (and therefore supposedly undeveloped) area. In many instances Congress has chosen, after careful study, to include vehicle trails, old logging roads, and even paved roadways within the boundaries of a wilderness area in order to create a boundary that is better suited to the task of wilderness—the protection of areas large enough to be effectively managed to preserve their wild and natural state in perpetuity.

Our predecessors on this Committee and their colleagues in the House worked eight years at crafting the Wilderness Act of 1964. The Forest Service had already created administratively protected "wilderness" and "primitive" areas. But the Congress recognized that these were not adequate to provide truly permanent protection. Those areas, as noted author and conservationist Wallace Stegner wrote in 1959, "were the creation of a farsighted bureau policy; they are founded on an administrative order and could be undone by another order."

Central, then, to their idea of a system of areas protected in their natural state "for present and future generation" was the provision that only Congress could remove an area from wilderness protection. Both the Senate and House debated whether to allow the Forest Service to do the initial designation, and ultimately resolved the issue in section 3 of the Wilderness Act of 1964. The resolution was clear and straightforward: each designation of a wilderness area required an act of Congress and each proposal to eliminate an area or portion thereof also required an act of Congress.

In 1975, when Senator Richard Neuberger or Oregon rose to co-sponsor Senator Hubert Humphrey's bill to set up a wilderness preservation system, he told his colleagues of the Forest Service's removal of 53,000 acres from the then administratively designated Three Sisters Wilderness:

> I am not assailing, or attacking, or criticizing anyone in the Forest Service or in the Department of Agriculture for the Three Sisters decision. What I am saying is this: such as decision is virtually for eternity. Once these 53,000 virgin acres are logged—even under selective-cutting conditions which are supervised so carefully by the Forest Service—they never, through all the epochs of time can duplicate their original primeval state. So final a verdict, Mr. President, ought to be reviewed by the Congress of the United States and it should not merely be within the fiat of an executive agency. The Congress, after all, is the supreme policymaking agency of the American people, to whom these national forest solitudes actually belong.

Senator Frank Church described his thinking on this important issue when he was the floor manager of wilderness legislation in 1961:

> I am not critical of persons who evaluate hydroelectric power or timber or minerals above continued preservation of a wilderness area. Our population has grown until there is great pressure among conflicting uses for land. We develop city plans and adopt zoning ordinances to keep order in our towns and cities. * * * These disagreements occur between entirely sincere men. Industrialists sometimes find it hard to understand why an industry is not preferable to the maintenance of a residential area, or (not) more desireable than a playground.
>
> We do not, however, let the industrialists or the realtors interested in the shopping centers and apartment developments, have the final say on the modification of city zones, nor do we leave the final decision to the appointed public officials who deal with them. The power of decision we reserve to elected officials, the mayor, and the city council, who are responsible to all the people.

In July of 1964, as the House was debating wilderness legislation, House Interior Committee Chairman Representative Wayne Aspinall of Colorado addressed the bill's reserving these decisions to Congress and expressed his concern for allowing an Administration to add areas to wilderness (which S. 371 would allow) as well as for allowing an Administration to delete areas:

> For the past several years we have had a national discussion concerning the need for Congress to set forth legislative guidelines to govern wilderness preservation and to assure a proper balance in the designation of such areas; that is, control the amount of land set aside for this limited use by making sure on one hand that not too much is earmarked while making sure on the other hand that

some future administrator did not arbitrarily do away with all of these areas.

As signed by the President that September, section 3(e) of the Wilderness Act mandates that any proposal to reduce the size of an existing wilderness areas shall be recommended by the land managment agency only after hearings and a report to be President. The President shall then report on his recommendation to the Congress and it shall be up to the Congress to decide on whether the area should be removed from the protective cloak of wilderness.

It is that provision that the Idaho Forest Management Act would violate. I do not believe that we should be transfering this Congressional power to an appointed representative of the administrative branch. Not only is this a betrayal of the spirit and practice of preservation efforts under the Wilderness Act, but I believe that it is entirely incorrect for Congress to move to designate an area for permanent protection if the Congress is unsure of the boundaries that we have drawn.

Knowledge should be the precursor to action, and nowhere is this more the case than with an action which is intended to be permanent. If we are not sure of the facts, we should seek them out. But we should not act. The determination of permanent boundaries for wilderness areas is the essence of wilderness protection, and it would not be delegated to anyone outside the Congress. Congress should draw the maps, make the decisions, and take the responsibility for these decisions.

Congress has passed Acts requiring Administrative agencies to give further study to whether areas should or should not be make wilderness, and where their boundaries should be. I have no objection to that. But Congress has never passed an Act giving the Administration the power to determine what to protect permanently, and what not; nor should we do so now. I support the procedure for changing wilderness boundaries included in the Wilderness Act. I cannot support this measure.

TIMOTHY E. WIRTH.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill S. 371, as reported.

○